

EVERYBODY'S

GUIDE

TO THE

EDUCATION ACT,

1902.

BY

HARTLEY B. N. MOTHERSOLE.

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Of the Inner Temple, and S.E. Circuit, Barrister-at-Law. Author of the "Parish Councils Guide" (5th edition); and

WILLIAM H. DUMSDAY,

Of Gray's Inn, Barrister-at-Law. Author of "Hadden's Local Government Acts, 1894-97" (4th edition); and of "Hadden's Overseers' Handbook" (2nd edition), &c., &c.

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PART II. gives a DIGEST OF CASES IN THE COURTS decided and reported in the year.

PART III. contains MISCELLANEOUS ORDERS, REGULATIONS, CIRCULARS, and other Official Information issued in the year.

PART IV. gives a TABLE OF PUBLIC BILLS IN PARLIAMENT during the year affecting local authorities which did not become law, with information as to their subject matter and progress.

In this volume special attention is paid to the Annotation of the **EDUCATION ACT, 1902.**

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BY
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Of Trinity College, Cambridge, and the Inner Temple and S.E. Circuit,
Barrister-at-Law.

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1902,

BEING THE TEXT OF THE ACT, TOGETHER WITH AN
INTRODUCTION AND EXPLANATORY NOTES,

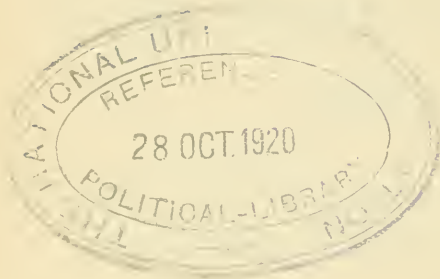
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5th edition. 10th thousand.

LONDON :

HADDEN, BEST & CO.,
5, WEST HARDING STREET, & 26, FETTER LANE E.C.,
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PREFACE.



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HARDING

An Act which changes the administration of the whole of the national system of education—primary, secondary, and technical—in England and Wales must, I think, be of interest to many persons.

There is really only one way in which to make sure of the terms of an Act, and that is by seeing it for one's self. The Act itself, however, refers to so many other Acts, and assumes so much knowledge on the part of its readers of the existing law and practice, that to the ordinary layman it would prove an incomplete and somewhat perplexing source of information.

The Act is reproduced *in extenso*, and under each section I have given such explanation or additional information as seemed necessary to make it intelligible to an ordinary reader.

In the Introduction there will be found a brief summary of the existing system of education, followed by a digest of the provisions of the Act, the various items relating to specific subjects being collected together and supplemented by matter from other sources where necessary.

I have endeavoured to compile a very full Index to the Act, which I hope will be of service to my readers for purposes of reference.

Some important circulars issued by the Board of Education have been inserted in the Appendix.

In preparing this work I deemed it wise to follow the plan of my "Parish Councils Guide," which, by the favour of the Public and the Press, reached its fifth edition within two years of its publication.

HARTLEY B. N. MOTHERSOLE.

4, Pump Court, Temple, E.C.

January, 1903.

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INTRODUCTION.

The system of Education before the appointed day — The Education Act, 1902.

[The sections quoted refer to the Education Act, 1902, except where otherwise stated.]

Elementary Education Before the Appointed Day.

Before 1870 the general education of children in elementary schools was a matter for voluntary effort only. The Church of England and some of the Nonconformist bodies did as much as they could in particular districts for the elementary education of the children of the locality.

In 1870 the Elementary Education Act was passed to supplement the existing schools, not to supplant them. Under this Act, where local voluntary effort had failed to provide the necessary school accommodation, the State stepped in, and by means of a "board school" filled up the gap.

In that year there were about 8,000 voluntary schools; now in 1902 there are over 14,000, so that during the last thirty-two years voluntary effort has still continued to cover the country with schools in which elementary education has been given to all comers: at the same time there are in existence nearly 6,000 board schools created under the Act of 1870.

At the present moment there are over three million children educated in voluntary schools and about $2\frac{3}{4}$ millions of children educated in board schools.

It is important to remember these figures when we consider the scheme of the Act of 1902, for it, like the Act of 1870, has taken into account the existing conditions, and has attempted

to build upon these foundations rather than to face the alternative of disregarding the past and the present and building on new foundations in their place.

All public elementary schools, whether voluntary or board, are under the control of the Board of Education, which, in return for the Government grant, requires the same standard of efficiency in secular education to be observed.

The Government grants do not (with a few exceptions) suffice to cover the maintenance of the school, but the central aid is supplemented in the case of board schools by means of a rate averaging £1 8s. 2d. per child, and in voluntary schools by means of voluntary subscriptions averaging 6s. 10d. per child. The economy needed, therefore, in voluntary schools, as shown by these figures, has made it increasingly difficult to keep the schools up to the proper level of efficiency required by the Board of Education. The voluntary schools at the present time comprise—

Church Schools	-	-	-	-	11,731
Wesleyan Schools	-	-	-	-	458
Roman Catholic Schools	-	-	-	-	1,053
British and Miscellaneous	-	-	-	-	1,052

In board schools under what is known as the "Cowper Temple" clause, no religious catechism, or formulary distinctive of any denomination, may be taught, though, in practice, in the case of Jewish schools the rule is not always observed. In voluntary schools denominational instruction may be given.

In every school, both board and voluntary, any religious instruction, denominational or otherwise, must under the "Conscience Clause" be arranged so that parents can withdraw their children therefrom without interfering with their secular education.

The religious instruction given in public elementary schools under the Education Act, 1902, is subject in "provided" schools to the "Cowper Temple" clause, and both in "non-provided" and in "provided" schools to the "Conscience Clause," the effect being that in every case, as at present, the parent can withdraw his child from all religious instruction,

taking advantage merely of the secular instruction therein provided; and that in a "provided" school no denominational religious instruction may be given.

By the various Elementary Education Acts passed since 1870 the attendance of children of school age at an efficient school has been made compulsory, and it has been part of the duties of the school boards and school attendance committees to see that the law has been complied with in that respect.

It is to be regretted, however, that these provisions as to compulsory attendance have not in all districts been carried out as rigidly as they might have been, with the result that though there are some $5\frac{1}{2}$ millions of children on the registers of the schools, there are always about a million absentees.

At the age of 14 children are exempt from the obligation to attend school, and, if they have reached a certain standard, they may leave as early as twelve years of age.

Compare this with the compulsory age limit enforced in many of the States of the United States of America and the German Empire, and you will see the force of Sir John Gorst's statement in the House of Commons, 18th June, 1898: "The great obstacle in the progress of elementary education is the early age at which children leave school."

Secondary Education Before the Appointed Day,

Secondary instruction has been chiefly provided by—

- (a) endowed grammar schools;
- (b) proprietary schools belonging to religious bodies or public companies;
- (c) private schools.

By the provisions of the Board of Education Act, 1899 secondary schools may secure an inspection by that Board or by some recognised University authority.

Under the Act of 1902 the local education authority has to consider the educational needs of its area, and, in exercising its

powers to supply or aid the supply of higher education, it must consider the existing supply of efficient schools: the production of a report of an inspection by the Board or some University authority would no doubt enable the local education authority to form an opinion as to the efficiency of any particular school.

In addition to the instruction given in the schools maintained above, secondary education has been imparted by means of science and art classes supported by grants from the South Kensington branch of the Board of Education, and by the county councils and borough or urban district councils under the Technical Instruction Acts (repealed by the Act of 1902). The councils have received from the Imperial Exchequer over £900,000 a year, known as the "whiskey" money, which they could apply to technical education, and, in addition, the councils have had the option of raising a rate to the extent of one penny in the pound for the same purpose. Before the case of *R. v. Cockerton* [1901] 1 *K.B.D.*, the school board had been spending part of their elementary school rate upon higher education, but the Court of Appeal held that school boards cannot vote money out of the rates for teaching science and art or for teaching adults.

The Education Act, 1901, was passed to enable these schools and classes to be temporarily carried on, and now, by the Education Act, 1902, the time has been extended to the "appointed day."

The Appointed Day.

The Education Act, 1902, will come into operation on the "appointed day," which will be March 26th, 1903, or such other day not more than 18 months later, as the Board of Education may appoint.

Extent of Act.

The Act applies to England and Wales, but London is excluded from its scope with the exception that, under the Education Act, 1901, Renewal Act, 1902, the period during

which the school board may be empowered to carry on the work of schools and classes under that Act is, in the case of London, extended to March 26th, 1904.

For the purposes of this Act, the council of the Isles of Scilly will be the local education authority, and the expenses of the council under this Act will be the general expenses of the Sect. 26. council.

The Local Education Authority.

The Act of 1902 gives the control of all secular education in public elementary schools to the local education authority, and where this authority is the council of a county or a county borough it must consider the educational needs of the area, and take such steps as may seem to it necessary after consultation with the Board of Education to supply or aid the supply of education other than elementary, and to promote the general co-ordination of all forms of education. For elementary education, the council of a borough with over 10,000 population and of an urban district with over 20,000 population, is the local education authority, population for the purposes Sect. 21. of the Act being calculated according to the census of 1901.

Sect. 23
(8).

The original idea of the Act was to establish one authority for all forms of education, but though this has been departed from in the Act as finally passed, it is still possible to constitute the one local education authority for every administrative Sect. 20. county by arrangement between the councils.

Arrangements between Councils.

An authority having powers under this Act—

- (i.) may make arrangements with the council of any county, Sect. 20. borough, district, or parish, whether a local education authority or not, for the exercise by the council on such terms as may be agreed upon, of any powers of the authority in respect of the management of any school or college within the area of the council; and

Arrange-
ments
between
Councils.

(ii.) if the authority is the council of a non-county borough or urban district may, at any time after the passing of this Act, by agreement with the council of the county and with the approval of the Board of Education, completely relinquish in favour of the council of the county any of their powers and duties under the Act; and the area of the authority, if the powers and duties so relinquished include powers as to elementary education, will, as respects those powers, be part of the area of the county council.

Sect. 20.

Where any council relinquishes its powers or duties in favour of a county council any property, rights, and liabilities incurred, for the purpose of the performance of the powers and duties relinquished, will be transferred to the county council, and any loans transferred to a council under this Act will, for the purpose of the limitation of the powers of the council to borrow, be treated as money borrowed under this Act.

Sched. II.
(2).

The Education Committees.

Sect. 17
(1).

One of the first duties of a council having powers under the Act will be to establish an education committee or committees.

Sect. 3.

The council of a borough with a population of 10,000 or less and the council of an urban district with a population of 20,000 or less, have powers only with respect to higher education (concurrently with the county council) and they need not appoint an education committee unless they think it necessary.

Sect. 17
(1).

Sect. 17
(1).

Sect. 17
(7).

The council proposing to establish an education committee must make a scheme for the same, which must be approved by the Board of Education within 12 months after the passing of the Act. If the council fails to carry this out, the Board of Education may make a provisional order for the purposes for which the scheme might have been made. Any scheme under this Act, when approved, has effect as if enacted in the Act; and any such scheme, or any provisional order made for the purposes of such scheme, may be revoked or altered by a scheme made in like manner and have the same effect as the original scheme. In preparing the scheme, the council must, if the council of a county borough, or borough, provide that the majority of the members of the committee shall be not only appointed by the council, but also be members of the council.

Sect. 21
(3).

Sect. 17
3 (a).

The council of a county, preparing a scheme, must provide that the majority of the committee be appointed by them, but it is optional with the council to determine, whether or not, the members of the majority should also be members of the council. Sect. 17
(3) (a)

The council must, also, by its scheme provide for the appointment on the education committee, of persons of experience in education, and persons acquainted with the needs of the various kinds of schools in the area for which the council acts. These persons may, if desirable, be nominated or recommended by other bodies, such as associations of voluntary schools. Sect. 17
(3) (b)

It is expressly enacted that women *must* be included as well as men amongst the members of the committee. Women are not in any way disqualified, by sex or marriage, from being on any body of managers or education committee under the Act. Sect. 17
(3) (c).
Sect. 23
(6).

The scheme must also provide for the appointment, if desirable, of members of school boards, existing at the time of the passing of the Act, as members of the first committee. Sect. 17
(3) (d).

Teachers or other office holders in a school or college (including any educational institution, whether residential or not), are not disqualified from being on an education committee. Sect. 17
(4).
Sect. 24
(4).

Persons (other than teachers, &c., as mentioned above), who, by reason of holding an office or place of profit or having any share or interest in a contract or employment, would be disqualified from being members of the council will also be disqualified from being members of the education committee appointed by the council. Sect. 17
(4).

If it is thought desirable, the council may make a scheme to provide for a separate education committee for any area within a county. On the other hand, larger areas may be provided for by the constitution of a joint education committee for a combination of counties, boroughs, or urban districts, or parts of them. Where such joint committee is appointed, the majority of its members must be appointed by the councils forming the combination. Sect. 17
(5).

The provisions of any scheme proposed will, before its

The
Education
Com-
mittees.

Sect. 17
(6).

Sect. 17
(8).

approval by the Board of Education, be notified publicly in the locality. If any scheme provides for the appointment of more than one education committee due regard must be paid to the importance of the general co-ordination of all forms of education. In the case of a county or county borough in Wales and Monmouthshire, the county governing bodies now existing under the Welsh Intermediate Education Act, 1889, cease to exist, and the scheme for establishing an education committee therein will provide for the transfer of the powers, duties, property, and liabilities of these bodies to the local education authority.

Functions of the Education Committee.

Sect. 17
(2).

The power of raising a rate or borrowing money rests solely with the council. All other matters connected with the exercise by the council of powers under this Act stand referred to the education committee. If the matter is, in its opinion, urgent the council may determine it without reference to the committee ; otherwise, the council will receive and consider the report of the education committee before exercising its powers. The council may, if it so chooses, delegate to the education committee any of its powers under the Act (except those relating to raising a rate or borrowing money). If it does so delegate its powers, or any of them, it may impose such resolutions or conditions as it thinks fit.

Sched. I.

The council may make regulations as to the quorum, proceedings, and place of meeting of the education committee, or failing these being made, the education committee may make them at their discretion. Minutes of the proceedings of an education committee must be kept in a book provided for the purpose, and a minute of these proceedings, signed at the same or next ensuing meeting by the chairman, will be received as evidence of the same. An education committee may, subject of course to any directions of the council, appoint sub-committees consisting wholly or partly of members of the committee, as the committee thinks fit.

In the event of an equal division of votes at any meeting of the committee, the chairman has a second or casting vote.

Until it is proved to the contrary, an education committee is deemed to have been duly constituted and to have power to

deal with any matters referred to in its minutes; and its proceedings will not be invalidated by any vacancy amongst its members or by any defect in the election, appointment or qualifications, of the same.

Higher Education.

The local education authority must consider the educational Sect. 2 (1). needs of their area and take such steps as seem to them desirable, after consultation with the Board of Education, to supply or aid the supply of education other than elementary, and to promote the general co-ordination of all forms of education, within their area.

It is expressly enacted that the expression "elementary Sect. 22 school" shall not include any school carried on as an evening (1). school under the regulations of the Board of Education, and Sect. 22 further, that the power to aid the supply of education other than (3). elementary includes a power to train teachers, and to supply or aid the supply of any education except where that education is given at a public elementary school. The effect of this is that "evening schools" will be maintained out of the funds provided for higher education.

The council, in providing for higher education, are not obliged Sect. 23 to provide the supply within their area, but may go outside their (2). area, if they consider it is expedient in the interests of their district to do so. The council have power also to provide scholarships for, and to pay the fees or assist in paying the fees of, students ordinarily resident in their area at schools, colleges, Sect. 24 or hostels, or other educational institutions, whether residential (4). or not, within or without that area.

Vehicles may be provided, or reasonable travelling expenses Sect. 23 paid, by the council for teachers or children attending school or (1). college, whenever the council consider it necessary owing to the circumstances of their district or any part thereof.

It is the duty of the council, in considering the educational Sect. 2 (2). needs of their area and the supply of higher education, to take into consideration any existing supply of efficient schools or colleges (including any educational institutions whether residential or not). The council must further consider the steps, if Sect. 24 (4).

Higher Education. any, already taken in the district for the purposes of the Technical Education Acts, 1889 to 1891, which are repealed by this Sect. 2 (2). Act. The council of any non-county borough, or urban district, Sched. IV. Part I. has power to supply or aid the supply of higher education (concurrently with the county council), to the extent of the amount produced by a 1*d.* rate.

Funds for Higher Education.

Sect. 2 (1). In addition to what is known as the "whiskey" money payable to the councils by the Imperial Exchequer under section 1 of the Local Taxation (Customs and Excise) Act, 1890, and Sched. II. (5). including any balance of the residue remaining unexpended and unappropriated by the council at the appointed day, the council have the following powers as to rating :—

(a.) In a county borough, the council has no limitation on its rating powers for this purpose.

(b.) In a county, the county council can rate up to 2*d.*, or such higher rate as the county council, with the consent of the Local Government Board, may fix.

Sect. 3. (c.) In a non-county borough or urban district the council may rate to the extent of a 1*d.* rate, concurrently with the county council.

Sect. 23 (4). The amount which would be produced by any rate in the pound is to be estimated in accordance with regulations made by the Local Government Board.

Religious Instruction in Schools, other than Elementary.

Sect. 4 (1) In any school, college, or hostel, aided but not provided by the council, the council must make no condition as to the teaching, use, or practice, of any particular form of religious instruction or worship, or any religious catechism or formulary distinctive of any particular denomination.

In the case of a school, college, or hostel provided by the council, no pupil shall be excluded from or placed in an inferior position on the ground of religious belief, and no catechism or formulary distinctive of any particular religious denomination

must be taught in any school, college, or hostel so provided : with this exception that the council may, at the request of the parents of scholars, allow any religious instruction to be given, otherwise than at the cost of the council. Any religious instruction, as herein-mentioned, must be given at such times and under such conditions as the council think desirable, and no unfair preference must be shown to any religious denomination.

The term "college" includes any educational institution whether residential or not. Sect. 24
(4).

In the case of a school or college receiving a grant in aid from, or altogether maintained by, a council for educational purposes other than elementary, the times for religious worship or for any lesson on a religious subject must be conveniently arranged for the purpose of allowing the withdrawal of any scholar therefrom. Sect. 4 (2).

Moreover, a scholar attending as a day or evening scholar must not be required as a condition of being admitted into or remaining in the school or college, to attend or abstain from attending any Sunday school, place of religious worship, religious observance, or instruction in religious subjects in school, college, or elsewhere.

Elementary Education.

School boards and school attendance committees are abolished, and their powers and duties under the Elementary Education Acts, 1870 to 1900, and any other Acts, including local Acts, are transferred to the local education authority. Sect. 5.

The local education authority is also responsible for, and has the control of, all secular instruction in "public elementary schools" not provided by them but which are situate in their area.

* It may be convenient here to insert the provisions of the Elementary Education Act, 1870, sections 3 and 7, which define the terms "elementary school" and "public elementary school." Education

The term "elementary school" means a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which Act, 1870,
sections 3 & 7.

Elementary
Education
Sched.
III. (5).

The duty of a local education authority under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation includes the duty of providing a sufficient amount of public school accommodation without payment of fees in every part of their area.

Sect. 22
(1).

In the Education Acts, 1870-1902, the expression elementary school does not include any school carried on as an "evening school" under the regulations of the Board of Education; education in evening schools can now be provided out of the funds allocated for "higher education."

Sect. 22
(3).

Sect. 2 (1).

Sect. 22
(2).

The power to provide instruction under the Elementary Education Acts, 1870-1900, is (except where these Acts

the ordinary payment in respect of the instruction from each scholar exceeds ninepence a week.

The term "public elementary school" means any elementary school which is conducted in accordance with the following regulations (a copy of which regulations must be conspicuously put up in every such school), viz.,

- (1.) It shall not be required, as a condition of any child being admitted into or continuing in the school, that he shall attend or abstain from attending any Sunday school, or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere, from which observance or instruction he may be withdrawn by his parent, or that he shall, if withdrawn by his parent, attend the school on any day exclusively set apart for religious observance by the religious body to which his parent belongs :
- (2.) The time or times during which any religious observance is practised or instruction in religious subjects is given at any meeting of the school shall be either at the beginning or at the end, or at the beginning and the end of such meeting, and shall be inserted in a time table to be approved by the Education Department, and to be kept permanently and conspicuously affixed in every school room ; and any scholar may be withdrawn by his parent from such observance or instruction without forfeiting any of the other benefits of the school :
- (3.) The school shall be open at all times to the inspection of any of His Majesty's inspectors, so, however, that it shall be no part of the duties of such inspector to inquire into any instruction in religious subjects given at such school, or to examine any scholar therein in religious knowledge or in any religious subject or book :
- (4.) The school shall be conducted in accordance with the conditions required to be fulfilled by an elementary school in order to obtain an annual parliamentary grant. [These conditions are too extensive to be set out here but will be found in the Day School Code, 1902, articles 76-92, and section 7, of the Education Act, 1902.]

expressly provide to the contrary) limited to the provision in a public elementary school of instruction given under the regulations of the Board of Education to scholars who, at the close of the school year, will not be more than 16 years of age. The local education authority may, however, with the consent of the Board of Education, extend those limits in the case of any such school, if no suitable higher education is available within a reasonable distance of the school.

The property, powers, rights, and liabilities (including those under any local Act, or any trust deed or instrument regulating the trusts or management of any school or college) of any school board or school attendance committee, existing at the "appointed day," are transferred to the council exercising the powers of the school board. Sched. II.
(1).
Sect. 24
(5).

When the liabilities of a school board transferred to the local education authority comprise a liability on account of money advanced by that authority to the school board, the Local Government Board may, by order, provide for the repayment of any debts incurred by the authority for the purposes of those advances within a period fixed by the order. Where the money advanced to the school board has been money standing to the credit of any sinking fund, or redemption fund, or capital money applied under the Local Government Acts, 1888 or 1894, the Local Government Board may, by order, provide for the repayment to the proper fund or account of the amount so advanced, and such order will have effect as if enacted in this Act. Sched.
(6).

Under the Elementary Education (Blind and Deaf Children) Act, 1893, and the Elementary Education (Defective and Epileptic Children) Act, 1899, in an area not under a school board, the school authority for the purposes of those Acts has been the district council. The district council now ceases to be a school authority within the meaning of these Acts. Sched. II.
(7).

Any property or rights acquired, and any liabilities incurred under those Acts, will be transferred to the county council, and the county council may raise any expenses incurred by them to meet any liability of a school authority under those Acts (whether a district council or not) and transferred to the county council, off the whole of their area, or off any parish or parishes Sched. IV.
Part II.

Elementary Education.

which, in the opinion of the council, are served by the school in respect of which the liability has been incurred.

Transitory Provisions.

Sched. II. (8). The powers and duties of a school board or school attendance committee which is abolished, or a council which ceases under this Act to exercise powers and duties, are deemed to be powers and duties transferred under this Act, and sections 85 to 88 of the Local Government Act, 1894, apply in the manner following.

Local Government Act, 1894, Sect. 85. *Current rates, &c.*

Every rate or precept for contribution made before the date on which relinquishment of powers and duties take place, may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if this Act had not passed.

The accounts of all receipts and expenditure before the date of relinquishment must be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as if this Act had not passed, but as soon as practicable after the date of relinquishment. Every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account is, until the audit is completed, deemed for the purpose of the audit to continue in office, and is bound to perform the same duties and render the same accounts, and is subject to the same liabilities as before the date of relinquishment.

All proceedings, legal and other, commenced before the date of relinquishment may be carried on in like manner, and may be amended as necessary.

Local Government Act, 1894, Sect. 86. *Saving for existing securities and discharge of debts.*

Nothing in this Act shall prejudicially affect any securities granted before the date of relinquishment on the credit of any rate or property transferred to the council by this Act ; and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a council shall be discharged, paid, and satisfied by that council, and where for that purpose it is necessary to continue the levy

of any rate or the exercise of any power which would have existed but for this Act, that rate may continue to be levied and that power to be exercised either by the authority who otherwise would have levied or exercised the same, or by the transferee as the case may require.

Every authority whose powers, duties, and liabilities are transferred by this Act must liquidate so far as practicable before the date of relinquishment all current debts and liabilities incurred by such authority.

All such byelaws, orders, and regulations of any authority, whose powers and duties are transferred by this Act to any council, as are in force at the time of the transfer, will, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly.

If at the time when any powers, duties, liabilities, debts, or property are by this Act transferred to a council, any action or proceeding, or any cause of action or proceeding is pending or existing by or against any authority in relation thereto, the same shall not be in any wise prejudicially affected at the date of the relinquishment of powers by the authority, but may be continued, prosecuted, and enforced by or against the council, as successors of the said authority, in like manner as if the date of the relinquishment of powers had not arrived.

All contracts, deeds, bonds, agreements, and other instruments subsisting at the time of the transfer in this section mentioned, and affecting any of such powers, duties, liabilities, debts, or property shall be of as full force and effect against or in favour of the council, and may be enforced as fully and effectually as if, instead of the authority, the council had been a party thereto.

Where any adjustment is required for the purpose of this Act, or for any order, or thing made or done under this Act, then, if the adjustment is not otherwise made the authorities interested may make agreements for the purpose, and may hereby adjust any property, income, debts, liabilities, and expenses, so far as affected by this Act, or such scheme, order, or thing of the parties to the agreement

Local Government Act 1894.
Sect. 87
Saving for existing byelaws.
Local Government Act, 1894.
Sect. 88.
Saving for pending contracts.
Local Government Act, 1894.
Sect. 68.
Adjustment of property and liabilities.

Transitory
Provisions.

Sched. II.
(22).

The agreement may provide for the transfer or retention of any property, debts, or liabilities with or without any conditions, and for the joint use of any property, and for payment by either party to the agreement in respect of property, debts and liabilities so transferred or retained, or of such joint-user, and in respect of the salary or remuneration of any officer or person. and that, either by way of an annual payment, or, except in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board.

In default of an agreement, and as far as any such agreement does not extend, such adjustment must be referred to arbitration in accordance with the Arbitration Act, 1889. The arbitrator will have power to disallow as costs in the arbitration, the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.

Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses of exercising these duties under this Act, or out of such special fund as the authority, with the approval of the Local Government Board, direct, and, if it is a capital sum, the payment thereof shall be a purpose for which the authority may borrow under the Acts relating to such authority, on the security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction. Any capital sum paid to any authority for the purpose of any adjustment under this Act will be treated as capital and applied, with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

Sched. II.
(11).

Where required for the purpose of bringing the accounts of a school to a close before the end of the financial year of the school, or for the purpose of meeting any change consequent on this Act, the Board of Education may calculate any parliamentary grant in respect of any month or other period less than a year, and may pay any parliamentary grant which has accrued before the appointed day at such times and in such manner as they think fit.

No election of members of a school board will be held after the passing of this Act, and the term of office of members of any school board holding office at the passing of this Act, or appointed to fill casual vacancies after that date, will continue to the "appointed day" (viz., March 26th, 1903, or such later day within 18 months after as may be fixed by the Board of Education). The Board of Education may make any orders it may think expedient to carry this provision into effect, which orders shall have effect as if enacted in the Act. Sched. II.
(10).
Sect. 27
(2).

During the period between the passing of the Act and the "appointed day," the managers of any public elementary school, whether provided by a school board or not, and any school attendance committee, must furnish to the council which will on the "appointed day" become the local education authority, such information as the council may reasonably require. Sched. II.
(15).

Position of Existing Officers.

The officers of any authority, whose property, rights, and liabilities are transferred under this Act to any council, will be transferred to and become the officers of that council, but that council may abolish the office of any such officer whose office they deem unnecessary. Sched. II.
(16).

Every officer so transferred will hold his office by the same tenure and on the same terms and conditions as before the transfer, and while performing the same duties will receive not less salary or remuneration than heretofore, but if any such officer is required to perform duties which are not analogous to, or which are an unreasonable addition to those which he is required to perform at the date of the transfer, he may relinquish his office, and any officer who so relinquishes his office, or whose office is abolished will be entitled to compensation under this Act. Sched. II.
(17).

Continuous service under any school boards or school attendance committees may be taken into account by a council in calculating the total period of service of any officer so entitled to compensation. Sched. II.
(18).

The Local Government Board may, by order, direct the Sched. II.
(19).

Position of Existing Officers. — manner in which officers who have made annual contributions under the Poor Law Officers' Superannuation Act, 1896, shall be compensated.

Sched. II. (20). The local education authority may, likewise, on such conditions as they think fit, admit to the benefits of any pension or superannuation scheme established by them any officers transferred to them under this Act.

Sched. II. (21). Officers transferred under this Act or those who, in consequence of the Act, suffer direct pecuniary loss by abolition of office, or by diminution or loss of fees or salary will be entitled to compensation out of the fund or rate out of which the expenses of a council under this Act are paid if the compensation is payable by way of an annual sum ; if payable otherwise,

Sched. II. 21 (*d*). the payment of the compensation may be made by the council out of a loan borrowed for the purpose.

Local Government Act, 1888. Sect. 120. In payment of compensation, regard will be had to the conditions on which the appointment was made, to the nature of the office and employment, to the duration of the service, to any additional emoluments acquired in consequence of the Act, and to the emoluments which might have been acquired if the holder of the office had not refused to accept any office offered by the council, and to all other circumstances of the case. The compensation must not exceed the amount payable to a person on abolition of office, under the Acts and regulations relating to H.M. Civil Service.

Sched. II. 21 (*b*). Any person claiming compensation must deliver to the council a written claim setting forth the whole amount received and expended by him or predecessors in office in every year during the five preceding years before the date on which the relinquishment takes place, on account of the emoluments for which he claims compensation, distinguishing the offices in respect of which the same have been received.

The claimant must also make a statutory declaration that the same is a true statement, according to the best of his knowledge, information, and belief.

Any claimant must, if so required by any member of the council, attend at a meeting of the council, and answer upon oath (which any justice present may administer) all questions asked by any member of the council touching the matter set

forth in his claim, and must further produce all books, papers, and documents in his possession or under his control relating to such claim.

If a person receiving compensation is appointed to any office, or in consequence of the Act receive any increase of emoluments of the office held by him, he must not while receiving the emoluments of that office receive any greater amount of his compensation (if any) than with the emoluments of the said office is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation must be suspended while he holds office.

Local
Govern-
ment Act,
1888.
Sect. 120.

If a claimant is aggrieved by the refusal of the council to grant any compensation, or by the amount of the compensation assessed, or if not less than one-third of the members of such council subscribe a protest against the amount of the compensation as being excessive, the claimant or any subscriber to such protest (as the case may be) may within three months after the decision of the council appeal to the Treasury whose decision will be final.

Management of Schools.

A.—*Public elementary schools provided by the local education authority.* Sect. 6 (1)

- (1.) Where the local education authority is the council of a county there will be a body of managers not exceeding four appointed by the council, together with a number not exceeding two appointed by the "minor local authority."

The "minor local authority" means, as respects any school, the council of any borough or urban district or the parish council or (where there is no parish council) the parish meeting of any parish which appears to the county council to be served by the school. Where the school appears to the county council to serve the area of more than one minor local authority, the county council must make such provisions as they think proper for joint appointment of managers by the authorities concerned.

Sect. 24

(2).

Manage-
ment of
Schools.

Sect. 6 (1).

- (2.) Where the local education authority are the council of a borough or urban district they may, if they think fit, appoint for any school provided by them a body of managers consisting of such number of managers as they may determine.

Sect. 6 (3).

Sect. 12

(1).

- (3.) The local education authority may group under one body of managers any public elementary schools provided by them. The body of managers of grouped schools must consist of such number and be appointed in such manner and proportion as, in the case of schools provided by the local education authority, may be determined by that authority.

Sect. 12

(3).

Where the local education authority are the council of a county they must make provision for due representation of minor local authorities (defined in A (1) above) on the bodies of managers of schools grouped under their direction.

- (4.) Notwithstanding anything in A (1), (2), and (3) above, where the local education authority consider that the circumstances of any school require a larger body of managers, that authority may increase the total number of managers, so, however, that the number of each class of managers is proportionately increased.

B.—Public elementary schools not provided by the local education authority.

Sect. 6 (2).

- (1.) In place of the existing managers, there will be a body of managers consisting of a number of foundation managers not exceeding four (appointed as explained in D below), together with a number of managers not exceeding two appointed :—

Sect. 24

(2).

- (a.) Where the local education authority are the council of a county, one by that council and one by the “minor local authority.” The “minor local authority” means as respects any schools, the council of any borough or urban district or the parish council or (where there is no parish council) the parish meeting of any parish which appears to the county council to

be served by the schools. Where the school appears to the county council to serve the area of more than one minor local authority, the county council must make such provisions as they think proper for joint appointment of managers by the authorities concerned.

- (b.) Where the local education authority are the council of a borough or urban district, both by that authority. (2). Sect. 6

The body of managers appointed under this Act for a public elementary school, not provided by the local education authority, will be the managers of that school both for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, and, so far as respects the management of the school as a public elementary school for the purpose of the trust deed. Sect. 11 (6).

- (2) The local education authority may, with the consent of the managers of the schools, group under one body of managers any public elementary schools not provided by them. The body of managers of grouped school must consist of such number, and be appointed in such manner and proportion as may be agreed upon between the bodies of managers of the schools concerned and the local education authority, or in default of agreement may be determined by the Board of Education. Sect. 12 (1), (2).

When the local education authority are the council of a county, they must make provision for the due representation of minor local authorities on the bodies of managers of schools grouped under their direction. Sect. 12 (3).

Any arrangement for grouping of schools not provided by the local education authority, must, unless previously determined by the consent of the parties concerned, remain in force for a period of three years. Sect. 12 (4).

- (3) Notwithstanding anything contained in B (1) and (2) above, where the local education authority consider that the circumstances of any school require a larger body of managers, that authority may increase the total number of managers, so, however, that the number of each class of managers is proportionately increased. Sect. 12 (3).

Management of
Schools.

C.—*General Rules as to Managers.*

Sched. I.
B

Sub-sec.
(1).

A body of managers may choose their chairman, except in cases where there is an ex-officio chairman, and regulate their quorum and proceedings in such manner as they think fit, provided that the quorum is not less than three, or one third of the whole number of managers, whichever is the greater.

Sub-sec.
(1)

Sub-sec.
(4)

In the case of managers of a school provided by a local education authority the managers, however, must obey the directions of that authority on these matters, as in all matters relating to the management of the school.

Sub-sec.
(5).

In the case of a manager of a school not provided by a local education authority, he may be removed by the authority (whether local education authority or minor local authority) appointing him, and he may resign such office if he thinks fit.

Sub-sec.
(6).

Sub-sec.
(7).

The body of managers must hold a meeting at least once in every three months, and any two managers may convene a meeting.

Sub-sec.
(2).

Every question at a meeting will be determined by a majority of the votes of the managers present and voting, and in case of equality of division the chairman has a casting vote.

Sub-sec.
(8).

Sub-sec.
(9).

The minutes of the proceedings must be kept in a book provided for the purpose, and when signed at the same or next ensuing meeting by the chairman, are evidence of the same.

Sub-sec.
(10).

The minutes must be open to inspection by the local education authority.

Sub-sec.
(3).

The proceedings will not be invalidated by any vacancy, or defect in the election, appointment, or qualification of any managers, and until the contrary is proved a body of managers is deemed to be duly constituted and to have power to deal with the matters referred to in the minutes.

D.—*Foundation Managers.*

Sect. 11
(1).

Sect. 24
(5).

The foundation managers of a school will be appointed under the provisions of the trust deed of the school or of any instrument regulating the trusts or management of a school.

For the purposes of the Act, therefore, the term "trust deed" includes not only deeds in the ordinary sense, but also any of the following instruments, if they provide for the appointment of trustees or give directions for the management of a school or its endowments, viz. :

- (i.) Orders of the Court of Chancery.
- (ii.) Orders of a County Court under the Charitable Trusts Acts, 1853 and 1860.
- (iii.) Orders of the Charity Commissioners.
- (iv.) Schemes made under the Endowed Schools Acts.
- (v.) Schemes made by the Education Department under sec. 75 of the Elementary Education Act, 1870.
- (vi.) In the case of privately owned schools, a lease or agreement in writing by which a school is let to managers for the purposes of a school, may be usually regarded as a trust deed, and any trust declared therein attaches to the whole of the tenant's interest whatever it may be.

If it is shown to the satisfaction of the Board of Education Sect. 11 that the provisions of the trust deed as to the appointment of (1). managers are in any respect inconsistent with the provisions of the Act, or insufficient or inapplicable for the purpose, or that there is no such trust deed available, the Board of Education will make an order under section 11 to meet the case.

Any such order may be made on the application of the Sect. 11 existing owners, trustees or managers of the school, made (2). within three months after the passing of this Act, and after that period on the application of the local education authority or any other person interested in the management of the school.

The Board of Education have issued a memorandum in order to assist owners, trustees, and managers of voluntary public elementary schools, to decide whether they will apply for an order under section 11 of this Act, and in order to facilitate the work of making and considering such application. The memorandum is of the utmost importance to those concerned and is therefore reproduced on page 81.

*Board of
Education
Memoran-
dum.
See page 81*

Any such order, when it modifies the trust deed, will have Sect. 11 effect as part of the trust deed, and where there is no trust (2).

Management of
Schools.

Sect. 11
(4).

deed will have effect as if it were contained in a trust deed. In making such order the Board of Education will have regard to the ownership of the school building, and to the principles on which the education given in the school has been conducted in the past.

Sect. 11
(7).

Where the receipt by a school, or the trustees or managers of a school, of any endowment or other benefit is, at the time of the passing of this Act, dependent on any qualification of the managers, the qualification of the foundation managers only will, in case of question, be regarded.

Sect. 11
(3).

Notice of any application, together with a copy of the draft final order proposed, will be given by the Board of Education to the local education authority and other persons interested, and the final order will not be made until six weeks after the notice has been so given.

Sect. 11
(5).

*Board of
Education
Memoran-
dum. (18).
See page 87*
Sect. 11
(8).

The Board of Education may, if they think fit, make an interim order to have temporary effect until the final order is made, and it is probable that most orders under section 11 will in the first instance be "interim orders."

The Board of Education may on the application of parties interested, revoke, vary or amend any order made under section 11 by an order made in similar manner; but the draft of the order so made must be laid before each House of Parliament for approval. Either House of Parliament may within thirty days after the draft has been so laid before Parliament, resolve that the draft or any part thereof shall not be proceeded with: no further proceedings will then be taken thereon, but this will not prejudice the making of any new draft order.

Maintenance of Schools.

Sect. 7
(1).

All necessary public elementary schools within the area of the local education authority will be maintained and kept efficient by that authority.

Sect. 18
(2).

All receipts in respect of any school maintained by a local education authority, including any parliamentary grant, but excluding sums specially applicable for purposes for which provision is to be made by the managers, will be paid to that authority.

The Board of Education must without unnecessary delay, Sect. 9. determine in case of dispute, whether a school is necessary or not, and in so determining must have regard :

- (i.) To the interests of secular instructions.
- (ii.) To the wishes of the parents as to the education of their children.
- (iii.) To the economy of the rates.

A school for the time being recognised as a public elementary school will not be considered unnecessary in which the average attendance as computed by the Board of Education is not less than thirty.

There are two classes of public elementary schools, viz., Sect. 7 those provided and maintained by the local education authority, ⁽¹⁾ and those maintained but not provided by it.

The control of all the expenditure required to maintain and keep efficient both classes of public elementary schools is given to the local education authority, except as regards expenditure for which the managers under this Act have to provide.

Any school which has been provided by a school board, or Sched. II. is deemed to have been so provided, must be treated for the ⁽¹³⁾ purposes of the Elementary Education Acts, 1870 to 1900, and this Act, as a school which has been provided by the local education authority, or which is deemed to have been so provided, as the case may be.

Any parliamentary grant payable to a public elementary school not provided by a school board in respect of a period ⁽¹²⁾ before the appointed day, will be paid to the persons who are managers of the school immediately before that day, and will be applied by them in payment of the outstanding liabilities on account of the school, and so far as not required for that purpose will be paid to the persons who are managers of the school for the purposes of this Act, and will be applied by them for the purposes for which provision is to be made under this Act by those managers, or for the benefit of any general funds applicable for those purposes; provided that the Board of Education may, if they think fit, pay any share of the said grant under the Voluntary Schools Act, 1897, allotted to the Association of Voluntary Schools, to the governing body of that association, if the Board of Education is satisfied as to its being properly applied.

Mainten-
ance of
Schools.

Sched. II.
(11)

When required for the purpose of bringing the accounts of a school to a close before the end of the financial school year, or for the purpose of making any change consequent on the Act, the Board of Education may calculate any parliamentary grant in respect of any month or other period less than a year, and may pay any parliamentary grant which has accrued before the appointed day at such times and in such manner as they think fit.

Conditions as to Maintenance of Non-provided Schools.

Sect. 7
(1) (a).

The Act enacts that the following conditions and provisions must be complied with, in order that it shall be the duty of the local education authority to maintain and keep efficient any necessary public elementary schools not provided by them: if any question arises between the local education authority and the managers, that question will be determined by the Board of Education.

Sect. 7
(3).

Sect. 7
(4).

One of the conditions required to be fulfilled by an elementary school in order to obtain a parliamentary grant will be that it is maintained under and complies with the provisions below.

A.--Duties of the Managers.

- (i.) The managers of the school must carry out any directions of the local education authority as to the secular instruction to be given in the school, including any directions with respect to the number or educational qualifications of the teachers to be employed for such instruction, and for the dismissal of any teacher on educational grounds.

If the managers fail to comply, the local education authority can carry out the directions as if they were managers.

No directions, however, must be such as to interfere with reasonable facilities for religious instruction during school hours.

Sect. 7
(1) (d).

- (ii.) The managers must provide the school house free of any charge, except for the teacher's dwelling house (if any), to the local education authority for use as a public elementary school.

- (iii.) The managers must out of funds provided by them, Sect. 7 keep the school house in good repair, except that such (1), (d). damage as the local authority consider to be due to "fair wear and tear" * in the use of any room in the school house for the purpose of a public elementary school must be made good by the local education authority.
- (iv.) The managers must make such alterations and Sect. 7 improvements in the buildings as may be reasonably (1) (d). required by the local education authority.
- (v.) The managers of the school must, if the local Sect. 7 education authority have no suitable accommodation in (1) (e). schools provided by them, allow that authority to use any room in the school house out of school hours, free of charge, for any educational purpose, on not more than three days in a week.
- (vi.) The managers of the school in respect of the use by Sect. 7 them of the school furniture out of school hours, will be (2). liable to make good any damage caused to the furniture by reason of that use (other than damage arising from fair wear and tear) and the managers must take care that, after the use of a room in the school house by them, the room is left in proper condition for school purposes.
- (vii.) The managers or trustees of any public elementary Sched. II. school not provided by a school board, must allow the use (14). for the purposes of the school, of any school furniture and apparatus belonging to them which is in use for the purposes of the school before the appointed day.
- (viii.) The managers of the school have all the powers of Sect. 7 management required for the purposes of this Act, and (7). (subject to the conditions in A (i.) above and B (ii).)

* N.B.—No express decision is known as to the exact effect of this expression: it is commonly found in leases added to the repairing covenant, in favour of the tenant. It is thought that the undertaking to repair, thus qualified, would not make the managers liable for dilapidations due to a fair and reasonable user of the premises for the purpose of a public elementary school. It will be observed that the local education authority is to pay for such damage as it "considers to be due to fair wear and tear," &c. The local education authority appears to be the judge in this matter.

Conditions
as to Main-
tenance of
of Non-
provided
Schools.

Sect. 7
(5).

Sect. 7
(6).

(iii.) (iv.) below) have the exclusive power of appointing and dismissing teachers

(ix.) The managers may appoint assistant teachers and pupil teachers, if it is thought fit, without reference to religious creed or denomination.

Where there are more candidates for the post of pupil teacher than there are places to be filled, the appointment rests with the local education authority (*see* B (vii.) below).

(x.) The managers will have control of the religious instruction, but it must, as regards its character, be in accordance with the provisions (if any) of the trust deed relating thereto; if, under any provision in a trust deed, there is an appeal to the bishop or superior ecclesiastical or denominational authority as to whether the character of the religious instruction, is or is not, in accordance with the provisions of the trust deed, that appeal remains.

B.—Duties of the local education authority.

Sect. 7 (1).

(i.) The local education authority, so long as the conditions and provisions contained in A above, are complied with, must maintain and keep the schools efficient and have control of all the expenditure required for that purpose (other than expenditure for which provision is to be made by the managers). The local education authority must make good any damage which it considers to be due to "fair wear and tear" in the use of any room in a school house for the purpose of a public elementary school.

Sect. 7 (1)
(d).

(ii.) The local education authority will give directions as to the secular instruction, including any directions with respect to the number and qualifications of the teachers to be employed for such instruction.

Sect. 7 (1)
(a).

Sect. 7 (1)
(a) (c).

(iii.) The local education authority may give directions for the dismissal of any teacher on educational grounds, and, on the other hand, its consent is required to the dismissal of a teacher, unless the dismissal be on grounds connected with the giving of religious instruction in the school.

- (iv.) The local education authority's consent is required to Sect. 7 (1) the appointment of teachers, but that consent must not (c) be withheld except on educational grounds.
- (v.) The local education authority has power to inspect Sect. 7 (1) the school. (b).
- (vi.) The local education authority in respect of the use by Sect. 7 (2). them of any room in the school house out of school hours, is liable to make good any damage caused by reason of that use (other than damage arising from fair wear and tear).
- (vii.) Where there are more candidates for the post of Sect. 7 (5) pupil teacher than there are places to be filled, the appointment must be made by the local education authority, and they must determine the respective qualifications of the candidates by examination or otherwise.
- (viii.) Where before the passing of this Act fees have been Sect. 14. charged in any public elementary school not provided by the local education authority, that authority must, while they continue to allow fees to be charged in respect of that school, pay such proportion of those fees as may be agreed upon, or, in default of agreement, determined by the Board of Education, to the managers.
- (ix.) If the local education authority fail to fulfil any of Sect. 16. their duties under the Education Acts, 1870-1902, the Sect. 23 Board of Education may, after holding a public enquiry, (10). make such order as they think necessary or proper for the purpose of compelling the authority to fulfil their duty, and any such order may be enforced by "mandamus."

"Mandamus" is a writ issuing from the King's Bench Division, the general object of it being to enforce some duty of a public nature in respect of which there is no other specific legal remedy. The application must be made by counsel, and cannot be made by a party in person; it can only be made on behalf of a person who has a real interest in requiring the duty to be performed.

Provision of New Schools.

Sect. 8 (1). New public elementary schools may be provided by the local education authority, or any other persons, on certain conditions. Public notice of their intention must be given, and the managers of any existing school, or the local education authority (if not proposing to provide it), or any ten ratepayers in the area covered, may within three months after notice is given, appeal to the Board of Education. The grounds of appeal are :

- (i.) That the proposed school is not required ; or
- (ii.) That a school provided by the local education authority, or not so provided, as the case may be, is better suited to meet the wants of the district.

Sect. 8 (1). Any school built in contravention of the decision of the Board of Education on such appeal will be treated as unnecessary.

Sect. 18 (1) (c). As to the expenses incurred by a county council in the provision of a public elementary school, *see* page 44 (iii), above.

Sect. 8 (3). Any transfer of a public elementary school to or from a local education authority will be treated as the provision of a new school, and any enlargement of a public elementary school may be so treated if, in the opinion of the Board of Education, it is such as to amount to the provision of a new school : in either case the transfer or enlargement would be subject to the conditions above.

Necessity of Schools.

Sect. 9. In case of dispute whether a school is necessary or not, and in deciding on any appeal as to the provision of a new school, the Board of Education must, without unnecessary delay, determine the point at issue.

A school for the time being recognised as a public elementary school will not be considered unnecessary in which the number of scholars in average attendance, as computed by the Board of Education, is not less than thirty.

Sect. 9. The Board of Education, in determining disputes as to the necessity of a school, or on appeal, as to the provision of a new school, must have regard :

- (i.) To the interests of secular instruction.
- (ii.) To the wishes of the parents as to the education of their children.
- (iii.) To the economy of the rates.

It should be remembered that it is the duty of the local education authority, under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation, without payment of fees, in every part of their area. Sched. III. 5).

If the local education authority fail to provide such additional public school accommodation, as is in the opinion of the Board of Education necessary, in every part of their area, the Board of Education may, after holding a public enquiry, make such order as they think necessary to compel the authority to fulfil their duty, and any such order may be enforced by "Mandamus." (*See B (ix.) above.*)

Schools attached to Institutions.

Marine schools, or schools which are part of, or held on the premises of, any institution in which children are boarded, may, at the option of the local education authority, be maintained by that authority : if the local education authority refuse to maintain such school, this will not render it incapable of receiving a parliamentary grant, nor will the school, if not so maintained, be subject to the provisions of this Act as to the appointment of managers or as to control by the local education authority. Sect. 15.

Endowments.

This Act does not affect any endowments, or the discretion of the trustees, in respect thereof, with the following exceptions. (1). Sect. 13
Where under the trusts or other provisions affecting any endowment the income thereof must be applied in whole or in part for those purposes of a public elementary school for which provision is to be made by the local education authority, the whole of the income or the part thereof, as the case may be, will be paid to that authority.

If part only of such income must be so applied, and the trusts, etc., do not determine the amount of such part, the Board of Education will, in case of difference between the parties concerned, fix the amount.

If the local education authority demand a public inquiry, the Board of Education will give ten days' notice of such inquiry to the local education authority, the minor local authority, and to the trustees.

Endow-
ments.

The Board will then proceed to hold an inquiry at the cost of the local education authority, and will not give its decision until after that inquiry.

Sect. 24
(2).

The "minor local authority" means the council of any borough, or urban district, or the parish council or (where there is no parish council) the parish meeting of any parish which appears to the county council to be served by the school.

Sect. 13
(2).

Any money arising from an endowment paid to the county council for the above purposes, will be credited by the council in aid of the rate levied for elementary educational purposes in the parish or parishes served by the school in question (of which the council is the judge), or, if the council so direct, will be paid to the overseers of the parish or parishes in the proportions directed by the council, and applied by the overseers in aid of the poor rate levied in the parish.

Aid Grant.

Sect. 10.

In lieu of the grants under the Voluntary Schools Act, 1897, and under section 97 of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1897, there will be paid annually to every local education authority out of moneys provided by Parliament, an aid grant (estimated to produce £1,300,000 more than that at present given) according to the following scheme :

The Act gives 4/- per child to every education authority ; this will probably absorb £814,000. The remainder of the money is allocated on the principle of seeking to aid districts where the rateable value is low and the number of children is comparatively large. There is believed to be no district where the proceeds of a penny rate divided by the average number of children to be maintained out of the rate will give a quotient of 10/-

The Act therefore takes 10/- as the outside limit and offers special aid of 1½d. per child for every 2d. by which the proceeds of the 1d. rate divided by the number of the children falls below 10/- *e.g.*

(a) In a district where the 1d. rate would produce 10/- the whole of the new grant would be 4/-

(b) In a district where the 1d. rate would produce $9/10$, the whole of the new grant would be $4/1\frac{1}{2}$.

(c) In a district where the 1d. rate would produce, say only 1/-, the whole of the new grant would be $4/- + 6/9 = 10/9$.

In no district must the amount paid by the Government in respect of all grants ("efficiency," "fee," and "special aid," grants), provide for the whole expenditure of the local authority on elementary education. If the local authority spends less than the amount of a 3d. rate in addition to the grants, the Board of Education will deduct from the grants due half the difference between the local contribution and the amount of a 3d. rate. The local authority will then have to provide the amount so deducted.

In estimating the produce of a penny rate in the area of a local education authority not being a county borough, the rate will be calculated upon the "county rate" basis, which, in cases where part only of a parish is situated in the area of a local education authority, will be apportioned as the Board of Education think just. The county council levies a "county rate" under the County Rates Act, 1852 (15 & 16 Vict. c. 81): for this purpose each county council has an assessment committee of its own, which may either adopt the existing poor law valuation or make one of its own. It divides the amount to be raised amongst the various parishes in the county according to the value of the property comprised in each parish. The council issues its precept to the guardians of each union bidding them collect from each parish (outside a quarter sessions borough) the amount so found due from it. The guardians pay the amount to the county treasurer, and recover it from the overseers of each parish. If the county council be not paid by the guardians within the time named in the precept, the county council may, themselves, order the overseers to collect the amount due from each parish. Sect. 10 (1).

In estimating the number of scholars for the purposes of this section 10 relating to the aid grant, the number of scholars in average attendance shall be taken, as computed by the Board of Education, in public elementary schools maintained by the authority. Sect. 10 (2).

Aid Grant.
The Day
School
Code, 1902
Art. 14.

The "average attendance" for any period is found by dividing the total number of "attendances" made during that period by the number of times for which the school has met during such period.

Expenses.

Sect. 18
(1).

The expenses of a council under this Act will, so far as not otherwise provided for, be paid :

(a) *In the case of a county council*, out of the county fund.

All moneys received by or on behalf of a county council from any source other than the Imperial Exchequer, are carried, at the present time, to its "county fund account."

Money can only be drawn out of the county fund account by the county treasurer on an order of the council, signed by at least three members of the county finance committee.

(b) *In the case of a borough council*, out of the borough fund or rate, or if no borough rate is levied, out of a separate rate to be made, assessed, and levied in like manner as the borough rate.

All moneys received by a borough in the ordinary course of its affairs (rates, fees, rents, and profits from corporate property, &c.) are paid into a fund called the borough fund, and out of this fund is drawn all the money necessary for the ordinary expenditure of the borough.

As regards a borough rate, the council assess the amount to be contributed by each parish: the assessment is based on the poor rate valuation unless it is thought necessary to have a special valuation, and the overseers are responsible for the collection of the rate.

Sect. 18
(3).

Separate accounts must be kept by the council of a borough of their receipts and expenditure under this Act, and those accounts must be made up and audited in like manner and subject to the same provisions as the accounts of a county council, and the enactments relating to the audit of these accounts and to all matters incidental thereto, and consequential thereon, including the penal provisions, will apply in lieu of the provisions of the Municipal Corporations Act, 1888, relating to accounts and audit.

Where under any local Act the expenses incurred in any Sect. 18 borough for the purposes of the Elementary Education Acts, (4). 1870 to 1900, are payable out of some fund or rate other than the borough fund or rate, the expenses of the council of that borough under this Act will be payable out of that fund or rate instead of out of the borough fund or rate.

(c.) *In the case of a council of an urban district other than a borough*, in manner provided by section 33 of the Education Act, 1876. Sect. 18 (1). Elementary Education Act, 1876 Sect. 33.

This section provides that the expenses shall be paid out of a fund raised out of the poor rate of the parish or parishes comprised in the district of such authority, according to the rateable value of each parish, and the authority will, for the purpose of obtaining payment of such expenses, have the same power as a board of guardians have for the purpose of obtaining contributions to their common fund under the Acts relating to the relief of the poor, and the accounts of such expenses will be audited as the accounts of other expenses of the authority.

“Receipts and Payments.”

All receipts in respect of any school maintained by a local Sect. 18 education authority, including any parliamentary grant, but (2). excluding sums specially applicable for purposes for which provision is to be made by the managers (*see* section 7) will be paid to that authority.

Where any receipts and payments of money under this Act Sect. 18 are entrusted by the local education authority to any education (5). committee established under this Act, or to the managers of any public elementary school, the accounts of those receipts and payments will be accounts of the local education authority; the auditor of these accounts, however, will have the same powers with respect to managers as he would have if the managers were officers of the local education authority.

Apportionment of Expenses.

(i.) Expenses incurred by a county council under this Sect. 18 Act with respect to education other than elementary may, (1) (a).

Appor-
tionment
of
Expenses.

Sect. 18
(1) (b).

- if the county council think fit, be charged on any parish or parishes which, in the opinion of the county council, are served by the school or college in connection with which the expenses have been incurred.
- (ii.) The county council must not raise any sums on account of their expenses for elementary education within any borough or urban district, the council of which is the "local education authority" for the purposes of this Act.

Sect. 1.

The council of a borough with a population of over 10,000, or of an urban district with a population of over 20,000 will, as respects that borough or district be the local education authority.

Sect. 20
(b).

It should be remembered that the council of any non-county borough or urban district may, at any time after the passing of this Act, by agreement with the council of the county, and with the approval of the Board of Education, relinquish in favour of the council of the county any of their powers and duties under this Act, and in that case the powers and duties of the authority so relinquished shall cease, and the area of the authority, if the powers and duties relinquished include powers as to elementary education, will, as respects those powers, be part of the area of the county council.

Sect. 18
(c).

- (iii.) Expenses incurred by a county council in respect of capital expenditure or rent on account of the provision or improvement of any public elementary school will be charged, as to not less than one-half or more than three-fourths, on the parish or parishes which, in the opinion of the council, are served by the school. The exact proportion of the expenses to be charged will be determined by the council, subject to the limitations above.

Sect. 18
(d).

- (iv.) Expenses incurred by the county council to meet the liabilities on account of loans or rent of any school board transferred to a county council, will be charged, as to not less than one-half nor more than three-fourths, exclusively within the area which formed the school

district in respect of which the liability was incurred, so far as it is within their area. The exact proportion of the expenses to be charged will be determined by the council, subject to the limitations above.

Borrowing.

The Act permits borrowing for educational purposes on the Sect. 19 same footing as borrowing for other local government purposes (1). by the authorities concerned under the Local Government Act, 1888, or the Public Health Acts, as the case may be. A county council will only have power to spread the repayment of these loans over thirty years, whereas under section 10 of the Elementary Education Act, 1873 (repealed by this Act), the school board had power, with the consent of the Education Department, to spread a loan over any period not exceeding fifty years.

In the case of money borrowed by a county borough, borough, Sect. 19 or urban district council, it will be borrowed on the security of (1). the fund or rate out of which the expenses of the council under this Act are payable (*see* section 18). Money borrowed under this Act will not be reckoned as part of the total debt of the local authorities concerned, for the purpose of limitation of their powers of borrowing under the Local Government Act, 1888, or the Public Health Acts.

Any loans transferred to a council under this Act, will, for Sched. II. the purpose of the limitation on the powers of the council to (3). borrow, be treated as money borrowed under this Act.

Disqualifications.

- (i.) The county councillors elected for an electoral division Sect. 23 consisting wholly of a borough or urban district whose (3). council are a local education authority for elementary education, or of some part of such a borough or district, must not vote in respect of any question arising before the County Council which relates only to elementary education.

Disquali-
fications.

Sched. II.
(9).

(ii.) The disqualification of any persons who are, at the time of the passing of this Act, members of any council, and who will become disqualified for office in consequence of this Act (*see* section 17 (4)) will not, if the council so resolve, take place until a date fixed by the resolution, not being later than :

- (a) In the case of a county council, the next ordinary day of retirement of councillors.
- (b) In the case of a council of a borough, the next ordinary day of election of councillors.
- (c) In the case of an urban district council, on the 15th of April, 1904.



EDUCATION ACT, 1902.

[2 EDW. 7, CH. 42.]

ARRANGEMENT OF SECTIONS.

PART I.

LOCAL EDUCATION AUTHORITY.

Section.

1. Local education authorities.

PART II.

HIGHER EDUCATION.

2. Power to aid higher education.
3. Concurrent powers of smaller boroughs and urban districts.
4. Religious instruction.

PART III.

ELEMENTARY EDUCATION.

5. Powers and duties as to elementary education.
6. Management of schools.
7. Maintenance of schools.
8. Provision of new schools.
9. Necessity of schools.
10. Aid grant.
11. Foundation managers.
12. Grouping of schools under one management.
13. Endowments.
14. Apportionment of school fees.
15. Schools attached to institutions.
16. Power to enforce duties under Elementary Education Acts.

PART IV.

GENERAL.

17. Education committees.
18. Expenses.
19. Borrowing.
20. Arrangements between councils.
21. Provisional orders and schemes.
22. Provision as to elementary and higher education powers respectively.
23. Miscellaneous provisions.
24. Interpretation.
25. Provisions as to proceedings, transfer, &c., application of enactments and repeal.
26. Application of Act to Scilly Islands.
27. Extent, commencement, and short title.

SCHEDULES.

EDUCATION ACT, 1902.

[2 EDW. 7, CH. 42.]

An Act to make further provision with respect to Education in England and Wales.

[18th December, 1902.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

LOCAL EDUCATION AUTHORITY.

Sect. 1. For the purposes of this Act the council of every county and of every county borough shall be the local education authority : Local
education
authorities

Provided that the council of a borough with a population of over ten thousand, or of an urban district with a population of over twenty thousand, shall, as respects that borough or district, be the local education authority for the purpose of Part III. of this Act, and for that purpose as respects that borough or district, the expression "local education authority" means the council of that borough or district.

NOTES.

County Councils.—Including the council of the Scilly Isles, there are 62 county councils, which become local education authorities under the Act.

County Boroughs.—Boroughs having a population of not less than 50,000 were constituted administrative counties of

NOTES TO
SECT. I.

County
boroughs.

themselves by section 31 of the Local Government Act, 1888 ; besides these there were seventeen boroughs whose privileges had been granted them previously by the Crown. The total number of county boroughs at the present time is 69, and the council of each of these becomes the local education authority.

Local Education Authorities.—These authorities, if the councils of a county or county borough, have complete control of all forms of education within their areas ; with this exception, that where the area includes any borough having a population of over 10,000 or an urban district with a population of over 20,000, those boroughs or urban districts, as the case may be, are exempted from the control of the county council as far as elementary education is concerned.

The councils of these larger boroughs and urban districts have complete control of elementary education within their respective areas, but as regards education other than elementary they are subject to be rated by the county council to the extent of a rate of twopence in the pound or such higher rate as the county council, with the consent of the Local Government Board may fix : concurrently with the county council, however, any non-county borough or urban district, irrespective of its population, may supply education other than elementary to the extent of a 1d. rate.

It is possible, therefore, for a borough or urban district to rate itself up to a 1d. rate, and to control the higher education thus provided for : at the same time, it may be rated up to 2d. or more by the county council for higher educational purposes, and the education thus provided would be under the control of the county council.

However, by section 20 below, any council of a non-county borough or urban district may, at any time after the passing of this Act, by agreement with the council of the county and with the approval of the Board of Education completely relinquish in favour of the council of the county any of their powers and duties under the Act, and the area of the authority, if the powers and duties so relinquished include powers as to elementary education, shall, as respects those powers, be part of the area of the county council.

Education Committees.—One of the first duties of a council having powers under the Act would be to establish an education committee or committees, to which all matters relating to the exercise by the council of their powers under the Act, except the power of raising a rate or borrowing money, stand referred. Boroughs and urban district councils, having powers only as to education other than elementary, are not obliged to establish a committee (*see* section 17 below).

NOTES TO
SECT. I.
—

Powers and Duties of Local Education Authority.—These have been brought together under the heading “Local Education Authority” in the Index, and can therefore be easily found by reference thereto.

Population.—Population for the purposes of this Act is to be calculated according to the census of 1901.

PART II.

HIGHER EDUCATION.

Sect. 2.—(1) The local education authority shall consider the educational needs of their area and take such steps as seem to them desirable, after consultation with the Board of Education, to supply or aid the supply of education other than elementary, and to promote the general co-ordination of all forms of education, and for that purpose shall apply all or so much as they deem necessary of the residue under section one of the Local Taxation (Customs and Excise) Act, 1890, and shall carry forward for the like purpose any balance thereof which may remain unexpended, and may spend such further sums as they think fit : Provided that the amount raised by the council of a county for the purpose in any year out of rates under this Act shall not exceed the amount which would be produced by a rate of twopence in the pound, or such higher rate as the county council, with the consent of the Local Government Board, may fix.

Power to
aid higher
education.

53 & 54
Vict. c. 60.

(2.) A council, in exercising their powers under this part of this Act, shall have regard to any existing supply

NOTES TO
SECT. 2.

52 & 53
Vict. c. 76

54 & 55
Vict. c. 4.

of efficient schools or colleges, and to any steps already taken for the purposes of higher education under the Technical Instruction Acts, 1889 and 1891.

NOTES.

Duties of the Local Education Authority.—It must first consider the educational needs of the area, and consider what steps ought to be taken : it will next consult the Board of Education as to those steps which appear to it to be desirable, the end in view being the supply or aiding the supply of education other than elementary, and the promotion of the general co-ordination of all forms of education. Higher education, as regards technical instruction, has to some extent been provided for under the Technical Instruction Acts (now repealed by Sched. IV., Part I., below) : elementary education has been provided for by voluntary and board schools : the supply of sound secondary education, forming a link between the elementary and the technical, has been very insufficient. It will be an important duty of the local education authorities to try and form a scheme by which all the various forms of education within their areas shall fit in to one another, so that a pupil may pass naturally after completing his elementary training into a further or secondary stage, and so onwards, until, if he be clever enough, the highest education may be within his reach.

It is the duty of the council in considering the educational needs of their area and the supply of higher education to take into consideration any existing supply of efficient schools or colleges (including any educational institutions whether residential or not) (sect. 24 (4)). The council must further consider the steps, if any, already taken in the district for the purposes of the Technical Education Acts, 1889 to 1891, which are repealed by this Act (Sched. IV., Part I.). The council of any non-county borough or urban district has powers to supply or aid the supply of higher education (concurrently with the county council) to the extent of the amount produced by a 1d. rate.

The council in providing for higher education are not obliged to provide the supply within their area, but may go outside their area if they consider it is expedient in the

interests of their district to do so (sect. 23 (2)). The council have power also to provide scholarships for and to pay the fees or assist in paying the fees of students ordinarily resident in their area at schools, colleges, or hostels, or other educational institutions, whether residential or not, within or without that area: the training of teachers is also within the scope of their powers (sect. 24 (4); sect. 22 (3)).

Vehicles may be provided, or reasonable travelling expenses paid by the council for teachers or children attending school or college whenever the council consider it necessary owing to the circumstances of their district or any part thereof (sect. 23 (1)).

Evening Schools.—It is expressly enacted that the expression “elementary school” shall not include any school carried on as an evening school under the regulations of the Board of Education (sect. 22 (1), and further, that the power to supply education other than elementary includes a power to supply or aid the supply of any education except where that education is given at a public elementary school (sect. 22 (3)). The effect of this is that “evening schools” will be maintained out of the funds provided for higher education.

Funds for Higher Education :—

(1.) All or so much as the councils deem necessary of what is known as the “whiskey” money payable to the councils by the Imperial Exchequer under section 1 of the Local Taxation (Customs and Excise) Act, 1890, and including any balance of the residue remaining unexpended and unappropriated by the council at the appointed day (Sched. II. (5)) must be expended for higher educational purposes in accordance with the provisions of section 2 (1) above.

The total amount of “whiskey” money for 1900-1901 was £924,359 19s. 10d., of which £863,846 11s. 5d. was applied to educational purposes and £60,513 8s. 5d. to the relief of rating.

(2.) The council have also the following powers as to rating :—

(a.) In a county borough, the council has no limitation on its rating powers for this purpose.

(b.) In a county, the county council can rate up to 2d., or such higher rate as the county council, with the consent of the Local Government Board, may fix.

NOTES TO
SECT. 2.

Funds for
higher
education.

(c.) In a non-county borough or urban district, the council may rate to the extent of a 1d. rate, concurrently with the county council (sect. 3).

Amount Produced by a Rate.—The amount which would be produced by any rate in the pound is to be estimated in accordance with regulations made by the Local Government Board (sect. 23 (4)).

Concur-
rent
powers of
smaller
boroughs
and urban
districts.

Sect. 3. The council of any non-county borough or urban district shall have power as well as the county council to spend such sums as they think fit for the purpose of supplying or aiding the supply of education other than elementary: Provided that the amount raised by the council of a non-county borough or urban district for the purpose in any year out of rates under this Act shall not exceed the amount which would be produced by a rate of one penny in the pound.

NOTES.

Non-county Borough or Urban District. — The section refers to *any* non-county borough or urban district irrespective of its population.

Boroughs. A borough is a place for the time being subject to the provisions of the Municipal Corporations Act, 1882; they are created by a special grant of incorporation by His Majesty on the advice of the Privy Council, to whom all petitions for the purpose are referred.

The councils of boroughs with a population of over 10,000 are local education authorities for elementary education within their area (*see* section 1): the councils of non-county boroughs (irrespective of size) have under this section 3 concurrent powers with the county council for the supply of higher education to the extent of a 1d. rate.

Urban Districts.—Urban districts, other than boroughs, are governed by an urban district council elected in accordance with the provisions of the Local Government Act, 1894. New urban districts may be constituted by an order of the county council under section 57 of the Local Government Act, 1888.

The council of an urban district with a population of over 20,000 is constituted a local education authority for elementary education within its area (*see* section 1): the council of any urban district (irrespective of size) has under this section 3 concurrent powers with the county council for the supply of higher education to the extent of a 1d. rate.

NOTES TO
SECT. 3.
—

Education other than Elementary.—*See* notes to section 2.

Amount Produced by a Rate.—The amount which would be produced by any rate in the pound is to be estimated in accordance with the regulations made by the Local Government Board (sect. 23 (4)).

Relinquishment of Powers.—By section 20 (b) below, any council of a non-county borough or urban district may, at any time after the passing of this Act, by agreement with the council of the county and with the approval of the Board of Education, completely relinquish in favour of the council of the county any of their powers and duties under this Act, and the area of the authority, if the powers and duties so relinquished include powers as to elementary education, will, as respects those powers, be part of the area of the county council.

Where any council relinquishes its powers or duties in favour of a county council any property, rights and liabilities incurred, for the purpose of the performance of the powers and duties relinquished, will be transferred to the county council, and any loans transferred to a council under this Act will, for the purpose of the limitation of the powers of the council to borrow be treated as money borrowed under this Act (Sched. II. (2)).

Education Committee.—Councils having powers only as to education other than elementary are not obliged to establish an education committee, if they determine that it is unnecessary in their case (sect. 17 (1)).

Sect. 4.—(1.) A council, in the application of money under this part of this Act, shall not require that any particular form of religious instruction or worship or any religious catechism or formulary which is distinctive of any particular denomination shall or shall not be taught, used, or practised in any school, college, or hostel

Religious
instruction

SECT. 4. aided but not provided by the council, and no pupil shall, on the ground of religious belief, be excluded from or placed in an inferior position in any school, college, or hostel provided by the council, and no catechism or formulary distinctive of any particular religious denomination shall be taught in any school, college, or hostel so provided, except in cases where the council, at the request of parents of scholars, at such times and under such conditions as the council think desirable, allow any religious instruction to be given in the school, college, or hostel, otherwise than at the cost of the council : Provided that in the exercise of this power no unfair preference shall be shown to any religious denomination.

(2.) In a school or college receiving a grant from, or maintained by, a council under this part of this Act,

(a.) A scholar attending as a day or evening scholar shall not be required, as a condition of being admitted into or remaining in the school or college, to attend or abstain from attending any Sunday school, place of religious worship, religious observance, or instruction in religious subjects in the school or college or elsewhere ; and

(b.) The times for religious worship or for any lesson on a religious subject shall be conveniently arranged for the purpose of allowing the withdrawal of any such scholar therefrom.

NOTES.

Application of Money under this Act. — The money here referred to comprises the amounts received by the councils concerned under the Local Taxation (Customs and Excise) Act, 1890 (*see* section 1 above) and also the amount raised by the council by means of rates under the provisions of sections 2 and 3, above

Formulary Distinctive of any Particular Denomination.—A similar term is used in the Elementary Education Act, 1870, section 14 (2).

The Education Department have held with respect to this definition that the Lord's Prayer, the Ten Commandments, and the Apostles' Creed are not formularies distinctive of any particular denomination.

NOTES TO
SECT. 4.

Religious Instruction.—The singing of hymns must not be so used as to be a religious observance, or to be made the means of giving religious instruction.

College.—This, by section 24 (4), includes any educational institution, whether residential or not.

General Effect of Section 4:—

Religious Instruction:—

(a) *in Non-provided Schools, &c.*—In any school, college, or hostel, aided but not provided by the council, the council must make no condition as to the teaching, use, or practice of any particular form of religious instruction or worship or of any religious catechism or formulary distinctive of any particular denomination.

(b) *in Provided Schools, &c.*—In the case of a school, college, or hostel provided by the council no pupil shall be excluded from or placed in an inferior position on the ground of religious belief, and no catechism or formulary distinctive of any particular religious denomination must be taught in any school, college, or hostel so provided: with this exception that the council may, at the request of the parents of scholars, allow any religious instruction to be given, otherwise than at the cost of the council, Any religious instruction as herein-mentioned must be given at such times and under such conditions as the council think desirable, and no unfair preference must be shown to any religious denomination.

(c) *"Conscience Clause."*—In the case of a school or college receiving a grant in aid from or altogether maintained by a council for educational purposes other than elementary, the times for religious worship or for any lesson on a religious subject must be conveniently arranged for the purpose of allowing the withdrawal of any scholar therefrom.

Moreover, a scholar attending as a day or evening scholar must not be required as a condition of being admitted into or remaining in the school or college, to attend or abstain from attending any Sunday school, place of religious worship, religious observance, or instruction in religious subjects in school or college or elsewhere.

SECT. 5.

PART III.

ELEMENTARY EDUCATION.

Powers
and duties
as to ele-
mentary
education.

Sect 5. The local education authority shall throughout their area have the powers and duties of a school board and school attendance committee under the Elementary Education Acts, 1870 to 1900, and any other Acts, including local Acts, and shall also be responsible for and have the control of all secular instruction in public elementary schools not provided by them, and school boards and school attendance committees shall be abolished.

NOTES.

School Board and School Attendance Committees.—Under the Elementary Education Acts, 1870-1900, the local authorities for elementary education are—

(1.) School boards for districts in which they have been elected.

(2.) School attendance committees in every other district. The school attendance committees have been appointed annually; in a borough by the council of the borough, and, in a parish, by the guardians of the union comprising such parish. Under section 33 of the Elementary Education Act, 1876, there were special provisions as to the appointment of school attendance committees in the districts of urban district councils which were not, and did not comprise a borough.

Abolition of.—By section 5 of this Act above school boards and school attendance committees, are abolished from and after the “appointed day” and their powers and duties are transferred to the local education authority. The local education authority is constituted in accordance with section 1 above: the “appointed day” is March 26th, 1903, or such other day not more than 18 months later, as the Board of Education may appoint. It should be remembered that the Board of Education may appoint different days for different purposes, and for different provisions of this Act, and for different councils, so that until 18 months have elapsed after March 26, 1903, there may still be school boards in existence.

No future election of School Boards.—No election of members of a school board must be held after December 18th, 1902, and the term of office of members of any school board (except in London) holding office at that date, or appointed to fill casual vacancies after that date will continue to the “appointed day” (*see* Sched. II., 10).

The Board of Education may make orders with respect to any matter which it deems necessary or expedient to deal with for the purpose of carrying this provision into effect, and any order so made will operate as if enacted in the Act.

Every scheme made by a local education authority under this Act for the establishment of an education committee must provide, *inter alia*, for the appointment, if desirable, of members of school boards existing on December 18, 1902, as members of the first committee (*see* section 17 (3) (d)).

References to—how construed.—After the “appointed day” references in Acts of Parliament, etc., to school boards and school districts, will be construed as references to “local education authorities,” and the areas for which they act (Sched. III. (1)).

During the period between the passing of the Act and the “appointed day,” the managers of any public elementary school, whether provided by a school board or not, and any school attendance committee must furnish to the council which will on the “appointed day” become the local education authority, such information as the council may reasonably require (Sched. II. (15)).

Transfer of Powers, etc., of—The property, powers, rights and liabilities (including those under any local Act, or any trust deed or instrument regulating the trusts or management of any school or college (sect. 24 (5)) of any school board or school attendance committee, existing at the “appointed day” are transferred to the council exercising the powers of the school board (Sched. II. (1)).

When the liabilities of a school board transferred to the local education authority comprise a liability on account of money advanced by that authority to the school board, the Local Government Board may, by order, provide for the repayment of any debts incurred by the authority for the purposes of those advances within a period fixed by the order. Where the money

NOTES TO
SECT. 5.
 School
 board and
 school
 attendance
 commit-
 tees.

advanced to the school board has been money standing to the credit of any sinking fund or redemption fund or capital money applied under the Local Government Acts, 1888 or 1894, the Local Government Board may, by order, provide for the repayment to the proper fund or account of the amount so advanced, and such order will have effect as if enacted in this Act (Sched. II. (6)).

Blind, Deaf, and Epileptic Children.—Under the Elementary Education (Blind and Deaf Children) Act, 1893, and the Elementary Education (Defective and Epileptic Children) Act, 1899, in an area not under a school board, the school authority for the purposes of those Acts has been the district council. The district council now ceases to be a school authority under the meaning of these Acts (Sched. IV., Part II.).

Any property or rights acquired, and any liabilities incurred under those Acts will be transferred to the county council, and the county council may raise any expenses incurred by them to meet any liability of a school authority under those Acts (whether a district council or not) and transferred to the county council, off the whole of their area, or off any parish or parishes which in the opinion of the council are served by the school in respect of which the liability has been incurred (Sched. II. (7)).

Transitory Provisions as to Transfer of Powers, etc.—The powers and duties of a school board or school attendance committee which is abolished, or a council which ceases under this Act to exercise powers and duties, are deemed to be powers and duties transferred under this Act.

In the notes to Schedule II. (8) and (22) will be found the provisions of those sections of the Local Government Acts, 1888 and 1894, which are applicable to these transfers.

Elementary Education Acts, 1870-1900.—It would not be possible within the scope of this present "Guide" to set out the provisions of these Acts relating to the powers and duties of school boards and school attendance committees; for information as to these one of the larger and more expensive works must be consulted.

In Sched. IV. below, however, will be found those parts of the same which have been repealed, and the reasons for, and effect of, such repeals.

The power to provide instruction under the Elementary Education Acts, 1870-1900, is (except where these Acts expressly provide to the contrary) limited to the provision in a public elementary school of instruction given under the regulations of the Board of Education to scholars who, at the close of the school year, will not be more than 16 years of age. The local education authority may, however, with the consent of the Board of Education, extend those limits in the case of any such school if no suitable higher education is available within a reasonable distance of the school (sect. 22 (2)).

Local Education Authority.—In addition to the powers of a school board and school attendance committee transferred to it, section 5 enacts that it shall be responsible for and have control of all secular instruction in public elementary schools not provided by it: the conditions of maintenance of these will be found in section 7 below and the notes thereto.

All necessary public elementary schools within its area will be maintained and kept efficient by it. All receipts in respect of any school maintained by it, including any parliamentary grant, but excluding sums specially applicable for purposes for which provision is to be made by the managers (such as repairs of school buildings) will be paid to it.

There are two classes of public elementary schools, viz., those provided and maintained by the local education authority, and those maintained but not provided by it: the control of all the expenditure required to maintain and keep efficient both classes of schools is given to the local education authority, except as regards expenditure, for which, under section 7 (1) below, the managers have to provide.

Any school which has been provided by a school board or is deemed to have been so provided must be treated for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, as a school which has been provided by the local education authority, or which is deemed to have been so provided, as the case may be (Sched. II. (13)).

The duty of a local education authority under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation includes the duty of providing a sufficient amount of public school accommodation without payment of fees in every part of their area (Sched. III. (5)).

NOTES TO
SECT. 5.

Public Elementary School.—It may be convenient here to insert the provisions of the Elementary Education Act, 1870, sections 3 and 7, which define the term “elementary school” and “public elementary school.”

Elementary
Education
Act, 1870,
sect. 3.

The term “elementary school” means a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payment in respect of the instruction from each scholar exceed ninepence a week.

Elementary
Education
Act, 1870,
sect. 7.

The term “public elementary school” means any elementary school which is conducted in accordance with the following regulations (a copy of which regulations must be conspicuously put up in every such school), viz. :—

- (1.) It shall not be required, as a condition of any child being admitted into or continuing in the school, that he shall attend or abstain from attending any Sunday school, or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere, from which observance or instruction he may be withdrawn by his parent, or that he shall, if withdrawn by his parent, attend the school on any day exclusively set apart for religious observance by the religious body to which his parent belongs :
- (2.) The time or times during which any religious observance is practised or instruction in religious subjects is given at any meeting of the school shall be either at the beginning or at the end, or at the beginning and the end of such meeting, and shall be inserted in a time table to be approved by the Education Department, and to be kept permanently and conspicuously affixed in every school room ; and any scholar may be withdrawn by his parent from such observance or instruction without forfeiting any of the other benefits of the school :
- (3.) The school shall be open at all times to the inspection of any of His Majesty's inspectors, so, however, that it shall be no part of the duties of such inspector to inquire into any instruction in religious subjects given at such school, or to examine any scholar therein in religious knowledge or in any religious subject or book :

- (4.) The school shall be conducted in accordance with the conditions required to be fulfilled by an elementary school in order to obtain an annual parliamentary grant. [These conditions are too extensive to be set out here, but will be found in the Day School Code, 1902, articles 76-92, a copy of which is indispensable to every one engaged in the management of schools. *See*, too, section 7 (4) below.]

NOTES TO
SECT. 5.

Sect. 6.—(1.) All public elementary schools provided by the local education authority shall, where the local education authority are the council of a county, have a body of managers consisting of a number of managers not exceeding four appointed by that council, together with a number not exceeding two appointed by the minor local authority.

Manage-
ment of
schools.

Where the local education authority are the council of a borough or urban district they may, if they think fit, appoint for any school provided by them a body of managers consisting of such number of managers as they may determine.

(2.) All public elementary schools not provided by the local education authority shall, in place of the existing managers, have a body of managers consisting of a number of foundation managers not exceeding four appointed as provided by this Act, together with a number of managers not exceeding two appointed—

- (a) where the local education authority are the council of a county, one by that council and one by the minor local authority ; and
 - (b) where the local education authority are the council of a borough or urban district, both by that authority.
- (3.) Notwithstanding anything in this section—
- (a.) Schools may be grouped under one body of managers in manner provided by this Act ; and

SECT. 6.

(b.) Where the local education authority consider that the circumstances of any school require a larger body of managers than that provided under this section, that authority may increase the total number of managers, so, however, that the number of each class of managers is proportionately increased.

NOTES.

Public Elementary Schools.—These are defined by section 7 of the Elementary Education Act, 1870, which is set out in the notes to section 5 of this Act above.

Local Education Authority.—As to constitution of the local education authority see section 1 above.

Foundation Managers.—As to the appointment and meaning of these *see* notes to section 11 below.

Minor Local Authority.—The “minor local authority” means as respects any schools, the council of any borough or urban district, or the parish council, or (where there is no parish council) the parish meeting, of any parish which appears to the county council to be served by the schools; where the school appears to the county council to serve the area of more than one minor local authority, the county council must make such provisions as they think proper for joint appointment of managers by the authorities concerned (Sect. 24 (2)).

Schools may be Grouped.—The provisions as to “grouping” of schools are contained in section 12 below, but are also explained in the next note, A (3), and B (2) below.

General Effect of Section 6.—The management of schools will be provided for as follows, according as the school in question is a “provided” or a “non-provided” school: Any school which has been provided by a school board, or is deemed to have been so provided, will be treated, for the purposes of the Education Acts, 1870 to 1902, as a “provided” school.

The local education authority will be entitled to use for the purposes of the school any school furniture and apparatus belonging to the trustees or managers of a “non-provided” school and in use for the purposes of the school before the

"appointed day" (Sched. II., 14). During the period between December 18th, 1902, and the appointed day the managers of any public elementary school, whether "provided" or "non-provided," and any school attendance committee, must furnish to the council, which will on the "appointed day" become the local education authority, such information as the council may reasonably require (Sched. II. (15)).

Rules as to Management of Schools:—

A.—"*Provided*" Schools.

- (1.) Where the local education authority is the council of a county there will be a body of managers not exceeding four appointed by the council, together with a number not exceeding two appointed by the "minor local authority" (defined above).
- (2.) Where the local education authority are the council of a borough or urban district they may, if they think fit, appoint for any school provided by them a body of managers consisting of such number of managers as they may determine.
- (3.) The local education authority may group under one body of managers any public elementary schools provided by them. The body of managers of grouped schools must consist of such number and be appointed in such manner and proportion as, in the case of schools provided by the local education authority, may be determined by the authority (sect. 12 (2)).

Where the local education authority are the council of a county they must make provision for due representation of minor local authorities (defined above) on the bodies of managers of schools grouped under their direction (sect. 12 (3)).

- (4.) Notwithstanding anything in A (1) (2) and (3) above where the local education authority consider that the circumstances of any school require a larger body of managers, that authority may increase the total number of managers, so, however, that the number of each class of managers is proportionately increased.

NOTES TO
SECT. 6.

Rules as to
manage-
ment of
schools.

B.—“Non-Provided” Schools.

- (1.) In place of the existing managers, there will be a body of managers consisting of a number of foundation managers not exceeding four (appointed as explained in the notes to sect. 11 below), together with a number of managers not exceeding two appointed :
- (a.) Where the local education authority are the council of a county, one by that council and one by the “minor local authority” (defined above).
- (b.) Where the local education authority are the council of a borough or urban district, both by that authority.

The body of managers appointed under this Act for a public elementary school, not provided by the local education authority, will be the managers of that school both for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, and, so far as respects the management of the school as a public elementary school, for the purpose of the trust deed (section 11 (6)).

- (2) The local education authority may with the consent of the managers of the schools, group under one body of managers any public elementary schools not provided by it (sect. 12 (1)). The body of managers of grouped schools must consist of such number and be appointed in such manner and proportion as may be agreed upon between the bodies of managers of the schools concerned and the local education authority, or in default of agreement may be determined by the Board of Education (sect. 12 (2)).

Where the local education authority are the council of a county, they must make provision for the due representation of minor local authorities on the bodies of managers of schools grouped under their direction (sect. 12 (3)).

Any arrangement for grouping of schools not provided by the local education authority, must, unless previously determined by the consent of the parties concerned, remain in force for a period of three years (sect. 12 (4)).

- (3) Notwithstanding anything contained in B (1) and (2) above, where the local education authority consider that the circumstances of any school require a larger body of managers, that authority may increase the total number of managers, so, however, that the number of each class of managers is proportionately increased.

NOTES TO
SECT. 6.

C. Procedure of Managers :—

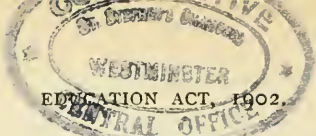
The rules regulating the proceedings of managers in both classes of schools will be found in Sched I., B. below.

Sect. 7.—(1.) The local education authority shall maintain and keep efficient all public elementary schools within their area which are necessary, and have the control of all expenditure required for that purpose, other than expenditure for which, under this Act, provision is to be made by the managers ; but, in the case of a school not provided by them, only so long as the following conditions and provisions are complied with :—

Mainten-
ance of
schools.

(a.) The managers of the school shall carry out any directions of the local education authority as to the secular instruction to be given in the school, including any directions with respect to the number and educational qualifications of the teachers to be employed for such instruction, and for the dismissal of any teacher on educational grounds, and if the managers fail to carry out any such direction the local education authority shall, in addition to their other powers, have the power themselves to carry out the direction in question as if they were the managers ; but no direction given under this provision shall be such as to interfere with reasonable facilities for religious instruction during school hours ;

(b.) The local education authority shall have power to inspect the school ;



SECT. 7.

- (c.) The consent of the local education authority shall be required to the appointment of teachers, but that consent shall not be withheld except on educational grounds ; and the consent of the authority shall also be required to the dismissal of a teacher unless the dismissal be on grounds connected with the giving of religious instruction in the school ;
- (d.) The managers of the school shall provide the school house free of any charge, except for the teacher's dwelling-house (if any), to the local education authority for use as a public elementary school, and shall, out of funds provided by them, keep the school house in good repair, and make such alterations and improvements in the buildings as may be reasonably required by the local education authority ; Provided that such damage as the local authority consider to be due to fair wear and tear in the use of any room in the school house for the purpose of a public elementary school shall be made good by the local education authority.
- (e.) The managers of the school shall, if the local education authority have no suitable accommodation in schools provided by them, allow that authority to use any room in the school house out of school hours free of charge for any educational purpose, but this obligation shall not extend to more than three days in the week.
- (2.) The managers of a school maintained but not provided by the local education authority, in respect of the use by them of the school furniture out of school hours, and the local education authority in respect of the use by them of any room in the school house out of school hours, shall be liable to make good any damage caused to the furniture or the room, as the case may be, by reason of that use (other than damage arising from fair wear and tear), and the managers shall take care

that, after the use of a room in the school house by them, the room is left in a proper condition for school purposes. SECT. 7
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(3.) If any question arises under this section between the local education authority and the managers of a school not provided by the authority, that question shall be determined by the Board of Education.

(4.) One of the conditions required to be fulfilled by an elementary school in order to obtain a parliamentary grant shall be that it is maintained under and complies with the provisions of this section.

(5.) In public elementary schools maintained but not provided by the local education authority, assistant teachers and pupil teachers may be appointed, if it is thought fit, without reference to religious creed and denomination, and, in any case in which there are more candidates for the post of pupil teacher than there are places to be filled, the appointment shall be made by the local education authority, and they shall determine the respective qualifications of the candidates by examination or otherwise.

(6.) Religious instruction given in a public elementary school not provided by the local education authority shall, as regards its character, be in accordance with the provisions (if any) of the trust deed relating thereto, and shall be under the control of the managers: Provided that nothing in this subsection shall affect any provision in a trust deed for reference to the bishop or superior ecclesiastical or other denominational authority so far as such provision gives to the bishop or authority the power of deciding whether the character of the religious instruction is or is not in accordance with the provisions of the trust deed.

(7.) The managers of a school maintained but not provided by the local education authority shall have all powers of management required for the purpose of carrying out this Act, and shall (subject to the powers of

NOTES TO the local education authority under this section) have
 SECT. 7 the exclusive power of appointing and dismissing teachers.

NOTES.

Local Education Authority.—As to the constitution of this *see* section 1 above.

Shall keep Efficient.—The provisions of the *Day School Code, 1902-1903*, relating to the efficiency of schools are here set out.

Article 86. “The school or infant class must be efficient. A school or class is regarded as satisfying this article if the inspector does not recommend the withholding of the grant under article 98 or 101 (*a*). The grant will not be withheld under this article until the following conditions have been fulfilled :—

- (1.) The inspector must, in his annual report, report the school or class inefficient, and state specifically the grounds of such judgment, and the Board must communicate the report to the managers, and give formal warning to them that the grant may be withheld under this article if the inspector again reports the school or class to be inefficient.
- (2.) The inspector must, in his next annual report, and after a visit paid with due notice during the last month of the school year, again report the school or class inefficient, and again state specifically the grounds of such judgment.
- (3.) If the managers within fourteen days after the receipt of the second adverse report of the inspector appeal against his decision, the school must be visited and such adverse report must be confirmed by a chief inspector.

The provisions of article 98 and 101 (*a*) referred to in article 86, above, in effect, provide that the inspector should be satisfied on the following points :—

- (*a*) the suitability of the instruction to the circumstances of the children and the neighbourhood ;
- (*b*) the thoroughness and intelligence with which the instruction is given ;
- (*c*) the suitability of the staff ;
- (*d*) the discipline and organisation.

Public Elementary Schools.—These are defined in section 7 of the Elementary Education Act, 1870, which is set out in the notes to section 5, above.

Necessary Schools.—The Board of Education must without unnecessary delay, determine in case of dispute, whether a school is necessary or not, and in so determining must have regard :

- (i.) To the interests of secular instructions.
- (ii.) To the wishes of the parents as to the education of their children.
- (iii.) To the economy of the rates.

A school for the time being recognised as a public elementary school must not be considered unnecessary in which the average attendance as computed by the Board of Education is not less than thirty (sect. 9).

The Day School Code, 1902-1903, Article 14, provides that the "average attendance" for any period is found by dividing the total number of "attendances" made during that period by the number of times for which the school has met during such period.

Fair Wear and Tear.—This term is used in section 7 (1) (d) and section 7 (2) above: it is a term commonly found in leases added to the repairing covenant, in favour of the tenant. The term has been incidentally referred to in cases relating to leases, but no express decision as to its meaning is known to me. It is thought that the undertaking to repair, thus qualified, would not make the managers liable for dilapidations due to a fair and reasonable user of the premises for the purpose of a public elementary school. It will be observed that under section 7 (1) (d) the local authority is liable for such damage as "*it considers to be due to*" fair wear and tear, in the use of any room in a school house for the purpose of a public elementary school; the local authority here appears to be the judge of what is meant by the term when applied to the particular case before it.

In section 7 (2) the term is again used, referring to the use of school furniture "out of school hours" by the managers, and to the use by the local education authority of any room in the school house "out of school hours." Nothing is said here as to the local education authority being the judge of what is

NOTES TO "fair wear and tear" under these circumstances. Section 7 (3),
 SECT. 7. however, provides that any question arising under section 7
 Fair wear and tear. between the local education authority and the managers of a school not provided by them must be determined by the Board of Education: it is to be assumed, therefore, that in the event of dispute between the parties as to damage caused "out of school hours" being due, or not, to "fair wear and tear" the question would be determined by the Board of Education.

Conditions required for Parliamentary Grant.—In addition to compliance with the conditions of section 7 (4) above, the Day School Code, 1902-1903, articles 76-92 must be complied with.

Religious Instruction.—The construction to be given to the provisions of section 7 (6) must be consistent with its plain and ordinary signification. It appears to me that the effect of this section is to provide that the character or nature of the religious instruction must be in accordance with the provisions of the trust-deed, if any, relating thereto. If there is a provision in the trust-deed for reference to the bishop or superior ecclesiastical or other denominational authority, the appeal remains *so far only* as it gives the bishop or authority power to decide whether the character or nature of the religious instruction is, or is not, in accordance with the provisions of the trust-deed.

The managers have full control of every other question as to the management of the religious teaching—how it is to be given and by whom—and no appeal will lie against their decision.

If the managers should infringe the terms of the trust as regards the character of the religious instruction as defined by the deed itself, or by the bishop or authority on reference in the terms of the deed, the proper remedy would lie, as in the case of any abuse of a charitable trust, by an information in the name of the Attorney-General.

The term "trust-deed" includes any instrument regulating the trusts or management of a school (section 24 (5)).

So much discussion occurred on this sub-section (6), known as the Kenyon-Slaney amendment, during the debates in Parliament, and so many interpretations were given to it, that

it may be well, as a warning, to give an extract from a well-known authority on the "Interpretation of Statutes": "It is unquestionably a rule that what may be called the parliamentary history of an enactment is not admissible to explain its meaning. Its language can only be regarded as the language of the three States of the realm, and the meaning attached to it by its framers, or by individual members of one of those States, cannot control the construction of it." (Maxwell, 3rd edition, p. 38.)

"Conscience Clause."—Any religious instruction given is subject to the provisions of section 7 of the Elementary Education Act, 1870, set out in the notes to section 5 above under the heading "Public Elementary School."

Maintenance of Schools.—All necessary public elementary schools within the area of the local education authority will be maintained and kept efficient by that authority.

All receipts in respect of any school maintained by a local education authority, including any parliamentary grant, but excluding sums specially applicable for purposes for which provision is to be made by the managers, will be paid to that authority (section 18 (2)).

There are two classes of public elementary schools, viz., those provided and maintained by the local education authority, and those maintained but not provided by it.

The control of all the expenditure required to maintain and keep efficient both classes of public elementary schools is given to the local education authority, except as regards expenditure (*e.g.*, for repairs) for which the managers under this Act have to provide.

Any school which has been provided by a school board or is deemed to have been so provided must be treated for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, as a school which has been provided by the local education authority, or which is deemed to have been so provided, as the case may be (Sched. II. (13)).

Any parliamentary grant payable to a public elementary school not provided by a school board in respect of a period before the appointed day, will be paid to the persons who are managers of the school immediately before that day, and will

NOTES TO
SECT. 7. be applied by them in payment of the outstanding liabilities on account of the school, and so far as not required for that purpose will be paid to the persons who are the managers of school for the purposes of this Act, and will be applied by them for the purposes for which provision is to be made under this Act by those managers, or for the benefit of any general fund applicable for those purposes; provided that the Board of Education may, if they think fit, pay any share of the aid grant under the Voluntary Schools Act, 1897, allotted to the Association of Voluntary Schools, to the governing body of that association, if the Board of Education is satisfied as to its being properly applied (Sched. II. (12)).

Mainten-
ance of
schools.

Where required for the purpose of bringing the accounts of a school to a close before the end of the financial school year, or for the purpose of making any change consequent on the Act, the Board of Education may calculate any parliamentary grant in respect of any month or other period less than a year, and may pay any parliamentary grant which has accrued before the appointed day at such times and in such manner as they think fit (Sched. II. (11)).

Maintenance of Non-provided Schools.—This section (7) is a complicated one; the effect of it is here summarised under the headings of “Duties of Managers” and “Duties of the Local Education Authority” respectively.

The Act enacts that the following conditions and provisions must be complied with, in order that it shall be the duty of the local education authority to maintain and keep efficient any necessary public elementary schools not provided by them: if any question arises between the local education authority and the managers that question will be determined by the Board of Education.

One of the conditions required to be fulfilled by an elementary school in order to obtain a parliamentary grant will be that it is maintained under and complies with the provisions below.

A.—DUTIES OF THE MANAGERS.

- (i.) The managers of the school must carry out any directions of the local education authority as to the secular instruction to be given in the school, including

any directions with respect to the number or educational qualifications of the teachers to be employed for such instruction and for the dismissal of any teacher on educational grounds.

If the managers fail to comply, the local education authority can carry out the directions as if they were managers.

No directions, however, must be such as to interfere with reasonable facilities for religious instruction during school hours.

- (ii.) The managers must provide the schoolhouse free of any charge, except for the teacher's dwelling house (if any) to the local education authority for use as a public elementary school.
- (iii.) The managers must out of funds provided by them,† keep the school house in good repair, except that such damage as the local authority consider to be due to "fair wear and tear"* in the use of any room in the school house for the purpose of a public elementary school must be made good by the local education authority.
- (iv.) The managers must make such alterations and improvements in the buildings as may be reasonably required by the local education authority.
- (v.) The managers of the school must, if the local education authority have no suitable accommodation in schools provided by them, allow that authority to use any room in the schoolhouse out of school hours, free of charge, for any educational purpose, on not more than three days in a week.
- (vi.) The managers of the school in respect of the use by them of the school furniture out of school hours, will be liable to make good any damage caused to the furniture by reason of that use (other than damage arising from fair wear and tear) and the managers must take care that after the use of a room in the school house, the room is left in proper condition for school purposes.

† It will be necessary to raise these, generally, by voluntary subscriptions, as heretofore. In some cases, under sections 13 and 14 below, sums raised from endowments and school fees would be available.

* As to "fair wear and tear," see note to section 7 under that head.

NOTES TO
SECT. 7.

Maintenance of non-provided schools.

A. Duties of the managers.

- (vii.) The managers or trustees of any public elementary school not provided by a school board, must allow the use for the purposes of the school, of any school furniture and apparatus belonging to them which is in use for the purposes of the school before the appointed day. (Sched. 2 (14).)
- (viii.) The managers of the school have all the powers of management required for the purposes of this Act, and (subject to the conditions in A (i.) above and B (ii.) (iii.) (iv.) below) have the exclusive power of appointing and dismissing teachers.
- (ix.) The managers may appoint assistant teachers and pupil teachers, if it is thought fit, without reference to religious creed or denomination.

Where there are more candidates for the post of pupil teacher than there are places to be filled, the appointment rests with the local education authority (*see* B (vii.) below).

- (x.) The managers will have control of the religious instruction, but it must, as regards its character, be in accordance with the provisions (if any) of the trust deed relating thereto ; if, under any provision in a trust deed, there is an appeal to the bishop or superior ecclesiastical or denominational authority as to whether the character of the religious instruction is, or is not, in accordance with the provisions of the trust deed, that appeal remains.

B.—DUTIES OF THE LOCAL EDUCATION AUTHORITY.

- (i.) The local education authority, so long as the conditions and provisions contained in A above are complied with, must maintain and keep the schools efficient and have control of all the expenditure required for that purpose (other than expenditure for which provision is to be made by the managers). The local education authority must make good any damages which it considers to be due to "fair wear and tear" in the use of any room in a school house for the purpose of a public elementary school.

- (ii.) The local education authority will give directions as to the secular instruction, including any directions with respect to the number and qualifications of the teachers to be employed for such instruction.
- (iii.) The local education authority may give directions for the dismissal of any teacher on educational grounds, and, on the other hand, its consent is required to the dismissal of a teacher, unless the dismissal be on grounds connected with the giving of religious instruction in the school.
- (iv.) The local education authority's consent is required to the appointment of teachers, but that consent must not be withheld except on educational grounds.
- (v.) The local educational authority has power to inspect the school.
- (vi.) The local education authority in respect of the use by them of any room in the school house out of school hours, is liable to make good any damage caused by reason of that use (other than damage arising from fair wear and tear).
- (vii.) Where there are more candidates for the post of pupil teacher than there are places to be filled, the appointment must be made by the local education authority, and it must determine the respective qualifications of the candidates by examination or otherwise.
- (viii.) Where before December 18th, 1902, fees have been charged in any public elementary school not provided by the local education authority, that authority must, while they continue to allow fees to be charged in respect of that school, pay such proportion of those fees as may be agreed upon, or, in default of agreement, determined by the Board of Education, to the managers. (Sect. 14.)
- (ix.) If the local education authority fail to fulfil any of their duties under the Education Acts, 1870-1902, the Board of Education may, after holding a public enquiry, make such order as they think necessary or proper for the purpose of compelling the authority to fulfil their duty, and any such order may be enforced by "mandamus." (Sect. 16. Sect. 23 (10).)

NOTES TO
SECT. 7.

Duties of
the local
education
authority.

“Mandamus” is a writ issuing from the King’s Bench Division, the general object of it being to enforce some duty of a public nature in respect of which there is no other specific legal remedy. The application must be made by counsel, and cannot be made by a party in person; it can only be made on behalf of a person who has a real interest in requiring the duty to be performed.

Provision
of new
school.

Sect. 8.—(1.) Where the local education authority or any other persons propose to provide a new public elementary school, they shall give public notice of their intention to do so, and the managers of any existing school, or the local education authority (where they are not themselves the persons proposing to provide the school), or any ten ratepayers in the area for which it is proposed to provide the school, may, within three months after the notice is given, appeal to the Board of Education on the ground that the proposed school is not required, or that a school provided by the local education authority, or not so provided, as the case may be, is better suited to meet the wants of the district than the school proposed to be provided, and any school built in contravention of the decision of the Board of Education on such appeal shall be treated as unnecessary.

(2.) If, in the opinion of the Board of Education, any enlargement of a public elementary school is such as to amount to the provision of a new school, that enlargement shall be so treated for the purposes of this section.

(3.) Any transfer of a public elementary school to or from a local education authority shall for the purposes of this section be treated as the provision of a new school.

NOTES.

Local Education Authority.—As to the constitution of this *see* section 1 above.

Public Elementary School. — This is defined in section 7 of the Elementary Education Act, 1870, which is set out in the notes to section 5 above. NOTES TO
SECT. 8.

Appeal to Board of Education.—The decision as to the suitability or necessity of a school rests, in case of dispute, with the Board of Education, who will decide the question, having regard to the conditions contained in section 9 below.

Transfer of Public Elementary School. — The regulations relating to the transfer of any elementary school by the managers to a school board, and to the retransfer of a school by a school board to the managers are contained in sections 23 and 24 of the Elementary Education Act, 1870.

References to a school board therein are to be construed as references to “local education authorities.”

Any transfer of a public elementary school to or from a local education authority will be treated as the provision of a new school, and be liable to the conditions imposed by this section 8, and by section 9 below.

The Elementary Education Act, 1870. Sections 23 and 24 :—

Sect. 23. The managers of any elementary school in the district of a school board may, in manner provided by this Act, make an arrangement with the school board for transferring their school to such school board, and the school board may assent to such arrangement. Managers may transfer school to school board.

An arrangement under this section may be made by the managers by a resolution or other act as follows ; (that is to say,)

- (1.) Where there is any instrument declaring the trusts of the school, and such instrument provides any manner in which or any assent with which a resolution or act binding the managers is to be passed or done, then in accordance with the provisions of such instrument :
- (2.) Where there is no such instrument, or such instrument contains no such provisions, then in the manner and with the assent, if any, in and with which it may be shown to the Education Department to have been usual for a resolution or act binding such managers to be passed or done :

NOTES TO
SECT. 8.

Transfer of
public ele-
mentary
school.
Elemen-
tary Edu-
cation Act,
1870,
sect. 23.

- (3.) If no manner or assent can be shown to have been usual, then by a resolution passed by a majority of not less than two-thirds of those members of their body who are present at a meeting of the body summoned for the purpose, and vote on the question, and with the assent of any other person whose assent under the circumstances appears to the Education Department to be requisite.

And in every case such arrangement shall be made only—

- (1.) With the consent of the Education Department ; and,
- (2.) If there are annual subscribers to such school, with the consent of a majority, not being less than two-thirds in number, of those of the annual subscribers who are present at a meeting duly summoned for the purpose, and vote on the question.

Provided that where there is any instrument declaring the trusts of the school, and such instrument contains any provision for the alienation of the school by any persons or in any manner or subject to any consent, any arrangement under this section shall be made by the persons in the manner and with the consent so provided.

Where it appears to the Education Department that there is any trustee of the school who is not a manager, they shall cause the managers to serve on such trustee, if his name and address are known, such notice as the Education Department think sufficient ; and the Education Department shall consider and have due regard to any objections and representations he may make respecting the proposed transfer.

The Education Department shall consider and have due regard to any objections and representations respecting the proposed transfer which may be made by any person who has contributed to the establishment of such school.

After the expiration of six months from the date of transfer the consent of the Education Department shall be conclusive evidence that the arrangement has been made in conformity with this section.

An arrangement under this section may provide for the absolute conveyance to the school board of all the interest in the school house possessed by the managers or by any person who is trustee for them or for the school, or for the lease of the

same, with or without any restrictions, and either at a nominal rent or otherwise, to the school board, or for the use by the school board of the school house during part of the week, and for the use of the same by the managers or some other person during the remainder of the week, or for any arrangement that may be agreed on. The arrangement may also provide for the transfer or application of any endowment belonging to the school, or for the school board undertaking to discharge any debt charged on the school not exceeding the value of the interest in the school house or endowment transferred to them.

When an arrangement is made under this section the managers may, whether the legal interest in the school house or endowment is vested in them or in some person as trustee for them or the school, convey to the school board all such interest in the school house and endowment as is vested in them or in such trustee, or such smaller interest as may be required under the arrangement.

Nothing in this section shall authorise the managers to transfer any property which is not vested in them, or a trustee for them, or held in trust for the school; and where any person has any right given him by the trusts of the school to use the school for any particular purpose independently of such managers, nothing in this section shall authorise any interference with such right except with the consent of such person.

Every school so transferred shall, to such extent and during such times as the school board have under such arrangement any control over the school, be deemed to be a school provided by the school board.

Sect. 24. Where any school or any interest therein has been transferred by the managers thereof to the school board of any school district in pursuance of this Act, the school board of such district may, by a resolution passed as herein-after mentioned, and with the consent of the Education Department, re-transfer such school or such interest therein to a body of managers qualified to hold the same under the trusts of the school as they existed before such transfer to the school board, and upon such re-transfer may convey all the interest in the school house and in any endowment belonging to the school vested in the school board.

Re-transfer
of school
by school
board to
managers.
Elemen-
tary Edu-
cation Act,
1870,
sect. 24.

NOTES TO
SECT. 8.

Elementary Edu-
cation Act,
1870,
sect. 24.

A resolution for the purpose of this section may be passed by a majority of not less than two-thirds of those members of the school board who are present at a meeting duly convened for the purpose and vote on the question.

The Education Department shall not give their consent to any such re-transfer unless they are satisfied that any money expended upon such school out of a loan raised by the school board of such district has been or will on the completion of the re-transfer be repaid to the school board.

Every school so re-transferred shall cease to be a school provided by a school board, and shall be held upon the same trusts on which it was held before it was transferred to the school board.

Necessity
of schools.

Sect. 9. The Board of Education shall, without unnecessary delay, determine, in case of dispute, whether a school is necessary or not, and, in so determining, and also in deciding on any appeal as to the provision of a new school, shall have regard to the interest of secular instruction, to the wishes of parents as to the education of their children, and to the economy of the rates; but a school for the time being recognised as a public elementary school shall not be considered unnecessary in which the number of scholars in average attendance, as computed by the Board of Education, is not less than thirty.

NOTES.

Necessity of Schools.—In case of dispute whether a school is necessary or not, and in deciding on any appeal as to the provision of a new school the Board of Education must without unnecessary delay determine the point at issue.

A school for the time being recognised as a public elementary school will not be considered unnecessary in which the number of scholars in average attendance, as computed by the Board of Education, is not less than thirty.

The Board of Education, in determining disputes as to the necessity of a school, or on appeal, as to the provision of a new school must have regard :

- (i.) To the interests of secular instruction.
- (ii.) To the wishes of the parents as to the education of their children.
- (iii.) To the economy of the rates.

Free Schools.—It should be remembered that it is the duty of the local education authority, under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation without payment of fees, in every part of their area (sched. III. (5)).

If the local education authority fail to provide such additional public school accommodation, as is in the opinion of the Board of Education necessary in every part of their area, the Board of Education may, after holding a public enquiry, make such order as they think necessary to compel the authority to fulfil their duty, and any such order may be enforced by “Mandamus” (see notes to section 16 below).

School Recognised as a “Public Elementary School.”—“Public elementary schools” are defined in section 7 of the Elementary Education Act, 1870, which is set out in the notes to section 5 above.

Average Attendance.—The Day School Code, 1902 1903, Article 14, provides that the average attendance for any period is found by dividing the total number of “attendances” made during that period by the number of times for which the school has met during such period. “Attendance” is defined in Articles 12 and 13 of the Code, which are set out under the heading “Average Attendance” in the notes to section 10 below.

Sect. 10.—(1.) In lieu of the grants under the Voluntary Schools Act, 1897, and under section ninety-seven of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1897, there shall be annually paid to every local education authority, out of moneys provided by Parliament—

Aid grant.
60 & 61
Vict. c. 5.
33 & 34
Vict. c. 75.
60 & 61
Vict. c. 16

- (a) a sum equal to four shillings per scholar; and
- (b) an additional sum of three halfpence per scholar for every complete twopence per scholar by which the amount which would be produced by a

SECT. 10.

penny rate on the area of the authority falls short of ten shillings a scholar; Provided that, in estimating the produce of a penny rate in the area of a local education authority not being a county borough, the rate shall be calculated upon the county rate basis, which, in cases where part only of a parish is situated in the area of the local education authority, shall be apportioned in such manner as the Board of Education think just.

But if in any year the total amount of parliamentary grants payable to a local education authority would make the amount payable out of other sources by that authority on account of their expenses under this part of this Act less than the amount which would be produced by a rate of threepence in the pound, the parliamentary grants shall be decreased, and the amount payable out of other sources shall be increased by a sum equal in each case to half the difference.

(2.) For the purposes of this section the number of scholars shall be taken to be the number of scholars in average attendance, as computed by the Board of Education, in public elementary schools maintained by the authority.

NOTES.

Voluntary Schools Act, 1897.—The Voluntary Schools Act, 1897, by section 1, which is now repealed by sched. IV., Part II., below, provided for a grant in certain schools not provided by a school board. The aid grant has been distributed by the Board of Education to such voluntary schools, and in such manner and amounts as it thought best, for the purpose of helping necessitous schools and increasing their efficiency.

This grant is no longer payable, its place being taken by a new aid grant, payable to the local education authority.

Rating of Schools. Section 3 of the Voluntary Schools Act, 1897, is not repealed, and the exemption from rates of schools not provided by the local education authority continues.

The Voluntary Schools Act, 1897, by section 3, enacted that : NOTES TO
SECT. 10.

“No person shall be assessed or rated to or for any local rate in respect of any land or building used exclusively or mainly for the purposes of the schoolrooms, offices, or playground of a voluntary school, except to the extent of any profit derived by the managers of the school from the letting thereof.”

The exemption does not apply in the case of a school provided by a school board, and it will not apply to a school provided by the local education authority under the Education Act, 1902.

The Elementary Education Act, 1897.—This Act is repealed by Sched. IV., Part II. below.

It provided for an increased grant to be payable in certain necessitous school board districts.

The increased grant is now abolished, and a new aid grant under section 10 above is substituted, payable to the local education authority.

Aid Grant.—In lieu of the grants under the Voluntary Schools Act, 1897, and under section 97 of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1897, there will be paid annually to every local education authority out of moneys provided by Parliament, an aid grant (estimated to produce £1,300,000 more than at present given) according to the following schemes :

The Act gives 4s. per child to every education authority ; this will probably absorb £814,000. The remainder of the money is allocated on the principle of seeking to aid districts where the rateable value is low and the number of children is comparatively large. There is believed to be no district where the proceeds of a penny rate divided by the average number of children to be maintained out of the rate will give a quotient of 10s.

The Act therefore takes 10s. as the outside limit, and offers special aid of 1½d. per child for every 2d. by which the proceeds of the 1d. rate divided by the number of the children falls below 10s., *e.g.* :

(a) In a district where the 1d. rate would produce 10s. the whole of the new grant would be 4s.

NOTES TO
SECT. 10.

Aid grant.

- (b) In a district where the 1d. rate would produce 9s. 10d. the whole of the new grant would be 4s. 1½d.
- (c) In a district where the 1d. rate would produce, say only 1s., the whole of the new grant would be 4s. + 6s. 9d. = 10s. 9d.

In no district must the amount paid by the Government in respect of all grants ("efficiency," "fee," and "special aid" grants) provide for the whole expenditure of the local authority on elementary education. If the local authority spends less than the amount of a 3d. rate in addition to the grants, the Board of Education will deduct from the grants due half the difference between the local contribution and the amount of a 3d. rate. The local authority will then have to provide the amount so deducted.

Estimating the Produce of a Rate.—In estimating the produce of a penny rate in the area of a local education authority not being a county borough, the rate will be calculated upon the "county rate" basis; which in cases where part only of a parish is situated in the area of a local education authority, will be apportioned as the Board of Education think just. The county council levies a "county rate" under the County Rates Act, 1852 (15 and 16 Vict. c. 81): for this purpose each county council has an assessment committee of its own, which may either adopt the existing poor law valuation or make one of its own. It divides the amount to be raised amongst the various parishes in the county according to the value of the property comprised in each parish. The council issues its precept to the guardians of each union bidding them collect from each parish (outside a quarter sessions borough) the amount so found due from it. The guardians pay the amount to the county treasurer, and recover it from the overseers of each parish. If the county council be not paid by the guardians within the time named in the precept, the county council may, themselves, order the overseers to collect the amount due from each parish.

By section 23 (4) below it is provided that the amount which will be produced by any rate in the pound will be estimated for the purposes of this Act in accordance with regulations made by the Local Government Board.

Average Attendance.—In estimating the number of scholars for the purposes of this section 10 relating to the aid grant, the number of scholars in average attendance shall be taken, as computed by the Board of Education, in public elementary schools maintained by the authority (Sect. 10 (2)).

The “average attendance” for any period is found by dividing the total number of “attendances” made during that period by the number of times for which the school has met during such period (The Day School Code, 1902, Art. 14).

The meaning of “attendance” in article 14 of the Code is defined in articles 12 and 13 here set out:—

Article 12. “An attendance” means attendance at secular instruction—

- (a) during one hour and a half in the case of a scholar in a school or class for infants ;
- (b) during two hours in the case of a scholar in a school or class for older children ; and during one hour and twenty minutes, in the case of a half-time scholar. The attendance of a half-time scholar for less than two consecutive hours is not recognised, but such two consecutive hours are reckoned as an attendance and a half. A separate register must be kept for half-time scholars, and the certificate of the inspector shall be conclusive proof of the number of attendances made by half-time scholars.
- (c) The marking of the registers for the afternoon meeting may not, without the special consent of the board, commence within an hour of the close of the morning meeting.
- (d) The class registers must be marked and finally closed before the minimum time constituting an attendance begins. If any scholar entered in the register as attending is withdrawn from school before the time constituting an attendance is complete, the entry of attendance should be at once cancelled.
- (e) The minimum time constituting an attendance may include an interval for recreation of not more than 15 minutes in a meeting of three hours and not more than 10 minutes in a shorter meeting. A meeting of two hours or more must include an interval for recreation of not less than 10 minutes.

NOTES TO
SECT. 10.Average
attend-
ance.The Day
School
Code,
1902,
Art. 12.

(f) In making up the minimum time constituting an attendance there may be reckoned time occupied by instruction in any of the following subjects, whether or not it is given in the school premises or by the ordinary teachers of the school, provided that special and appropriate provision approved by the inspector is made for such instruction, and the times for giving it are entered in the approved time table :—

Drawing.

Manual instruction.

Science.

Physical Training.

Cottage Gardening.

Domestic Economy, Practical Cookery, Laundry Work, Dairy Work, Practical Housewifery.

Any other subject specially recognised by the board for the purposes of this article.

(g) (i.) Visits paid during the school hours under proper guidance to museums, art galleries, and other places of educational value, or of national or historical interest, may be reckoned as attendances in accordance with sections (a) and (b) of this article, provided that not more than twenty such attendances may be claimed for any one scholar in the same school year, and that the places to be visited and the arrangements for such visits are approved by the inspector.

(ii.) Attendances at a central examination conducted by managers of schools may be reckoned as attendances in accordance with sections (a) and (b) of this Article, provided that the arrangements for such examination are previously approved by the inspector.

(h) In making up the minimum time constituting an attendance there may be reckoned time occupied in attending at a training college or central class for pupil-teachers for the purpose of model or criticism lessons.

The Day
School
Code,
1902,
Art. 13.

Article 13. No attendance is, as a rule, recognised for any scholar under three years of age, or for any scholar who has been under instruction for more than one year in the three elementary subjects in Standard VII. and is upwards of fourteen years of age, or for any scholar while habitually employed as a monitor.

From and after April 1, 1903, no attendance may be reckoned for any scholar under three or over fifteen years of age, or for any scholar while habitually employed as a monitor.

NOTES ON
SECT. 10.

N.B.—The power to provide instruction under the Education Acts 1870 to 1900, is by Section 22 (2) below limited to the provision in a public elementary school of instruction given under the regulations of the Board of Education to scholars who, at the close of the school year, will not be more than sixteen years of age.

Sect. 11.—(1.) The foundation managers of a school shall be managers appointed under the provisions of the trust deed of the school, but if it is shown to the satisfaction of the Board of Education that the provisions of the trust deed as to the appointment of managers are in any respect inconsistent with the provisions of this Act, or insufficient or inapplicable for the purpose, or that there is no such trust deed available, the Board of Education shall make an order under this section for the purpose of meeting the case.

Founda-
tion
managers.

(2) Any such order may be made on the application of the existing owners, trustees, or managers of the school, made within a period of three months after the passing of this Act, and after that period on the application of the local education authority or any other person interested in the management of the school, and any such order, where it modifies the trust deed, shall have effect as part of the trust deed, and where there is no trust deed shall have effect as if it were contained in a trust deed.

(3.) Notice of any such application, together with a copy of the draft final order proposed to be made thereon, shall be given by the Board of Education to the local education authority and the existing owners, trustees, and managers, and any other persons who appear to the Board of Education to be interested, and the final order shall not be made until six weeks after notice has been so given.

SECT. 11. (4.) In making an order under this section with regard to any school, the Board of Education shall have regard to the ownership of the school building, and to the principles on which the education given in the school has been conducted in the past.

(5) The Board of Education may, if they think that the circumstances of the case require it, make any interim order on any application under this section to have temporary effect until the final order is made.

(6.) The body of managers appointed under this Act for a public elementary school not provided by the local education authority shall be the managers of that school both for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, and, so far as respects the management of the school as a public elementary school, for the purpose of the trust deed.

(7.) Where the receipt by a school, or the trustees or managers of a school, of any endowment or other benefit is, at the time of the passing of this Act, dependent on any qualification of the managers, the qualification of the foundation managers only shall, in case of question, be regarded.

(8.) The Board of Education may, on the application of the managers of the school, the local education authority, or any person appearing to them to be interested in the school, revoke, vary, or amend any order made under this section by an order made in a similar manner ; but before making any such order the draft thereof shall, as soon as may be, be laid before each House of Parliament, and, if within thirty days, being days on which Parliament has sat, after the draft has been so laid before Parliament, either House resolves that the draft, or any part thereof, should not be proceeded with, no further proceedings shall be taken thereon, without prejudice to the making of any new draft order.

NOTES.

NOTES TO
SECT. 11.
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Foundation Managers.—Every voluntary public elementary school will henceforth be managed by a body normally consisting of six persons, of whom four will be “foundation managers” representing the interests of those by whom the school was established or is at present managed. The remaining two managers will be representatives of local authorities. The “foundation managers” will, although appointed in a different manner, act together with the two other managers for all the purposes of conducting a public elementary school and with them will compose the body which is spoken of in the Act as “the managers of the schools.”

The “managers of the schools” appointed under this Act for a public elementary school not provided by the local education authority will be the managers of that school for the purposes of the Education Acts, 1870–1902, and, so far as respects the management of the school as a public elementary school, for the purposes of the trust deed.

Four is the normal number of foundation managers under the Act, but under section 6 (3) (b), where the local education authority consider that the circumstances of any school require a larger body of managers, that authority may increase the total number of managers, so, however that the number of each class of managers is proportionately increased.

Where the receipt by a school or by the trustees or managers of a school of any endowment or other benefit is, at the time of the passing of this Act, dependent on any qualification of the managers, the qualification of the foundation managers only will in case of question be regarded.

Order of Board of Education.—The Board of Education have issued a Memorandum in order to assist owners, trustees, and managers of voluntary public elementary schools to decide whether they will apply for an Order under this section 11, and in order to facilitate the work of making and considering such applications.

The Memorandum deals with the question of appointment of “foundation managers” and other points under section 11 in the fullest possible manner. It is reproduced in the Appendix below, and will well repay the most careful study by those concerned.

Trust Deed.—Under section 24 (5) the term “trust deed” includes any instrument regulating the trusts or management of a school.

For the purposes of the Act, therefore, the term “trust deed” includes not only deeds in the ordinary sense, but also any of the following instruments, if they provide for the appointment of trustees or give directions for the management of a school or its endowments, viz. :

- (i.) Orders of the Court of Chancery.
- (ii.) Orders of a County Court under the Charitable Trusts Acts, 1853 and 1860.
- (iii.) Orders of the Charity Commissioners.
- (iv.) Schemes made under the Endowed Schools Acts.
- (v.) Schemes made by the Education Department under sect. 75 of the Elementary Education Act, 1870.
- (vi.) In the case of privately owned schools, a lease or agreement in writing by which a school is let to managers for the purposes of a school, may be usually regarded as a trust deed, and any trust declared therein attaches to the whole of the tenant's interest whatever it may be.

In cases of doubt, or difficulty, where the trust deed is defective, or insufficient in any particulars, the trustees should apply for directions to the Board of Education.

The “Memorandum” (*see* Appendix below) gives the fullest particulars as to the duties of the managers, or trustees, in nearly every conceivable case, and, when required, further information applicable to the particular case would be given by the Board of Education.

In making an order under this section 11, the Board must have regard to the ownership of the schoolbuilding, and to the principles on which the education given in the school has been conducted in the past.

Grouping
of schools
under one
manage-
ment.

Sect. 12.—(1.) The local education authority may group under one body of managers any public elementary schools provided by them, and may also, with the consent of the managers of the schools, group under one body of managers any such schools not so provided.

(2.) The body of managers of grouped schools shall consist of such number and be appointed in such manner

and proportion as, in the case of schools provided by the local education authority, may be determined by that authority, and in the case of schools not so provided, may be agreed upon between the bodies of managers of the schools concerned and the local education authority, or in default of agreement may be determined by the Board of Education. SECT. 12.

(3.) Where the local education authority are the council of a county, they shall make provision for the due representation of minor local authorities on the bodies of managers of schools grouped under their direction.

(4.) Any arrangement for grouping schools not provided by the local education authority shall, unless previously determined by consent of the parties concerned, remain in force for a period of three years.

NOTES.

Local Education Authority.—For constitution of this, *see* section 1 above.

Grouping of Schools.

A. In the case of "Provided" Schools.—The local education authority may group under one body of managers any public elementary schools provided by them. The body of managers of grouped schools must consist of such number and be appointed in such manner and proportion as in the case of schools provided by the local education authority may be determined by that authority (*see* section 6 (1) and (3) above).

Where the local education authority are the council of a county they must make provision for due representation of minor local authorities (defined below) on the bodies of managers of schools grouped under their direction.

B. In the case of "Non-Provided" Schools.—The local education authority may, with the consent of the managers of the schools, group under one body of managers any public elementary schools not provided by them. The body of managers of grouped schools must consist of such number and be appointed in such manner and proportion as may be agreed

NOTES TO
SECT. 12. upon between the bodies of managers of the schools concerned
and the local education authority, or, in default of agreement,
Grouping may be determined by the Board of Education.
of schools.

Where the local education authority are the council of a county, they must make provision for the due representation of minor local authorities on the bodies of managers of schools grouped under their direction.

Any arrangement for grouping of schools not provided by the local education authority, must, unless previously determined by the consent of the parties concerned, remain in force for a period of three years.

Body of Managers.—The body of managers is constituted under the provisions of sections 6 and 11 above, and this section in the case of grouped schools. The rules as to their proceedings will be found in Sched. I., B, below.

The body of managers appointed for a public elementary school not provided by the local education authority will be the managers of the school both for the purposes of the Education Acts, 1870-1902, and so far as respects the management of the school as a public elementary school, for the purpose of the trust deed (section 11 (6)).

Public Elementary Schools.—These are defined in section 7 of the Elementary Education Act, 1870, which is set out in the notes to section 5 above.

Minor Local Authority.—The “minor local authority” means as respects any schools, the council of any borough or urban district or the parish council or (where there is no parish council) the parish meeting of any parish which appears to the county council to be served by the schools; where the school appears to the county council to serve the area of more than one minor local authority, the county council must make such provisions as they think proper for joint appointment of managers by the authorities concerned (*see* section 24 (2)).

Endow-
ments.

Sect. 13.—(1) Nothing in this Act shall affect any endowment, or the discretion of any trustees in respect thereof: Provided that, where under the trusts or other provisions affecting any endowment the income thereof must be applied in whole or in part for those purposes

of a public elementary school for which provision is to be made by the local education authority, the whole of the income or the part thereof, as the case may be, shall be paid to that authority, and, in case part only of such income must be so applied and there is no provision under the said trusts or provisions for determining the amount which represents that part, that amount shall be determined, in case of difference between the parties concerned, by the Board of Education; but if a public inquiry is demanded by the local education authority, the decision of the Board of Education shall not be given until after such an inquiry, of which ten days' previous notice shall be given to the local education authority and to the minor local authority and to the trustees, shall have been first held by the Board of Education at the cost of the local education authority.

(2.) Any money arising from an endowment, and paid to a county council for those purposes of a public elementary school for which provision is to be made by the council, shall be credited by the council in aid of the rate levied for the purposes of this Part of this Act in the parish or parishes which in the opinion of the council are served by the school for the purposes of which the sum is paid, or, if the council so direct, shall be paid to the overseers of the parish or parishes in the proportions directed by the council, and applied by the overseers in aid of the poor rate levied in the parish.

NOTES.

Endowments.—This Act does not affect any endowments, or the discretion of the trustees in respect thereof, with the following exceptions. Where under the trusts or other provisions affecting any endowment the income thereof must be applied in whole or in part for those purposes of a public elementary school for which provision is to be made by the local education authority, the whole of the income or the part thereof, as the case may be, will be paid to that authority.

If part only of such income must be so applied, and the

NOTES TO trusts, etc., do not determine the amount of such part, the
 SECT. 13. Board of Education will fix the amount, in case of difference
 Endow- between the parties concerned.
 ments.

If the local education authority demand a public inquiry, the Board of Education will give ten days' notice of such inquiry to the local education authority, the minor local authority, and to the trustees.

The Board will then proceed to hold an inquiry at the cost of the local education authority, and will not give its decision until after that inquiry.

The object of this section 13 is to interfere with the discretion of the trustees as little as possible, but to ensure that, where the trust indicated the particular direction of the endowment, that direction should be followed out. The majority of trusts are general in character, and the section leaves them in the discretion of the managers or trustees. But there are other endowments designated to no particular body, endowments for teachers' salaries and other objects. These go to the local education authority. Where the trust under which the endowment is held indicates that the income is to go in a direction which leaves it in the possession of the local education authority, it will reach the authority, and where the trust leaves it in the hands of the managers, it will be assured to the managers.

Money for Endowments Paid to County Council.—

Any money arising from an endowment paid to the county council for the above purposes will be credited by the council in aid of the rate levied for elementary educational purposes in the parish or parishes served by the school in question (of which the council is the judge), or, if the council so direct, will be paid to the overseers of the parish or parishes in the proportions directed by the council, and applied by the overseers in aid of the poor rate levied in the parish.

It may appear to the county council that it would be more convenient simply to credit the parish with the amount in the rate they would be charged with, or it may be more convenient that the money should be paid to the overseers in the proportions directed by the council. This is left in the discretion of the county council under this section 13.

Public Elementary School. — This is defined in NOTES TO section 7 of the Elementary Education Act, 1870, which is set SECT. 13. out in the notes to section 5, above.

Local Education Authority.—This is constituted in accordance with the provisions of section 1, above.

Minor Local Authority.—The “minor local authority” means the council of any borough or urban district, or the parish council or (where there is no parish council) the parish meeting of any parish which appears to the county council to be served by the school (section 24 (2)).

Public Inquiry by Board of Education. — By section 23 (10) below, it is provided that *section 73 of the Elementary Education Act, 1870*, shall apply to any public inquiry held by it.

Section 73 (so far as it is unrepealed by Sched. IV., Part II., below) is as follows : Elementary Education Act, 1870, sect. 73.

“Where a public inquiry is held in pursuance of the provisions of this Act the following provisions shall have effect :—

(1.) The Education Department shall appoint some person who shall proceed to hold the inquiry.

(2.) The person so appointed shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood to which the subject of inquiry relates, and thereat shall hear, receive, and examine any evidence and information offered, and hear and inquire into any objections or representations made respecting the subject of the inquiry, with power from time to time to adjourn any sitting.

Notice shall be published in such manner as the Education Department direct of every such sitting (except an adjourned sitting) seven days at least before the holding thereof :

(3.) The person so appointed shall make a report in writing to the Education Department setting forth the result of the inquiry and stating his opinion on the

NOTES TO
SECT. 13.

Public
inquiry
by Board
of Educa-
tion.
Elemen-
tary Edu-
cation Act,
1870,
sect. 73.

subject thereof, and his reasons for such opinion, and the objections and representations, if any, made on the inquiry, and his opinion thereon; and the Education Department shall cause a copy of such report to be deposited with the school board.

- (4.) The Education Department may make an order directing that the costs of the proceedings and inquiry shall be paid according as they think just either by the district as if they were expenses of a school board*, or by the applicants for the inquiry; and such costs may be recovered in the former case as a debt due from the school board, and, in the case of the applicants as a debt due jointly and severally from them; and the Education Department may, if they think fit, before ordering the inquiry to be held, require the applicants to give security for such expenses, and in case of their refusal may refuse to order the inquiry to be held.

N.B. In this section 73 the Board of Education and the local education authority should be substituted for Education Department and school board respectively.

* Under section 13 (1) above, where the local education authority demand a public inquiry it is to be held at the cost of the local education authority.

Appor-
tionment
of school
fees.

Sect. 14. Where before the passing of this Act fees have been charged in any public elementary school not provided by the local education authority, that authority shall, while they continue to allow fees to be charged in respect of that school, pay such proportion of those fees as may be agreed upon, or, in default of agreement, determined by the Board of Education, to the managers.

NOTES.

Public Elementary School.—This is defined in section 7 of the Elementary Education Act, 1870, which is set out in the notes to section 5, above.

Non-provided Schools.—As to the management and maintenance of these, *see* sections 6 (2) and 7, above.

Memorandum as to Free Education.—The Lords of the Committee of Council have issued the following declaration:—

“The law does not give parents a right to free education at the school which their children are attending, if that school has a right to charge fees.

“The law, however, gives them a right to demand free education for their children at some school which is free, or which provides free places, and which is within a convenient distance from their home; and, if the Education Department find, after inquiry, that there is no school of this kind open to these children, they will cause one to be provided.

“If there is no school of the kind at present, it is still necessary that the parents should send their children to school, and pay the fees, until such a school has been provided.

“G. W. KEKEWICH.

“Education Department, 6th March, 1893.”

By Sched. III. (5) below, the following provision has effect in lieu of section 5 of the Elementary Education Act, 1891:

“The duty of a local education authority under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation shall include the duty to provide a sufficient amount of public school accommodation without payment of fees in every part of their area.”

Apportionment of School Fees.—According to the latest returns (1900–1901) the number of schools charging fees was as follows: Church of England schools, 1,756; Wesleyan, 307; Roman Catholic, 113; British and other, 330; Board, 153; total, 2,659. The amount received from fees was—Church of England schools, £121,815; Wesleyan, £29,981; Roman Catholic, £7,163; British and other, £31,161; Board, £41,161; total, £231,281. The amount received in fees is entered in Form 9 and applied to the maintenance of the schools.

Under this section 14, where before the 18th of December, 1902, fees have been so charged in voluntary schools, the local education authority, while they continue to allow them to be charged, must agree with the managers as to the proportion of the same to be retained by the managers: in default of agreement the Board of Education will determine the proper proportion.

SECT. 15.

Schools
attached
to institu-
tions.

Sect. 15. The local education authority may maintain as a public elementary school under the provisions of this Act, but shall not be required so to maintain, any marine school, or any school which is part of, or is held in the premises of, any institution in which children are boarded, but their refusal to maintain such a school shall not render the school incapable of receiving a parliamentary grant, nor shall the school, if not so maintained, be subject to the provisions of this Act as to the appointment of managers, or as to control by the local education authority.

NOTES.

Local Education Authority.—As to the constitution of this, *see* section 1 above.

Public Elementary School.—This is defined in section 7 of the Elementary Education Act, 1870, which is set out in the notes to section 5, above.

Schools Attached to Institutions.—Marine schools, or schools which are part of, or held in the premises of, any institution in which children are boarded, may at the option of the local education authority be maintained by that authority under section 7 above; if the local education authority refuse to maintain such school, this will not render it incapable of receiving a parliamentary grant, nor will the school if not so maintained be subject to the provisions of this Act as to the appointment of managers, or as to control by the local education authority (*see* sections 6 and 5, above).

The school will be subject to the regulations of the Board of Education as to the payment of grants, but sub-section (4) of section 7, above, would not apply.

Marine Schools are those which have been taken over for the children of parents connected with the Admiralty in various ways. They are five in number, and have hitherto received the parliamentary grants.

The other classes of Schools are those attached to orphanages and institutions, in which in certain large towns waifs and strays are collected together in one building, and are looked after by charitable persons.

These schools have for many years received a parliamentary grant; they are useful for charitable purposes, and it is proposed that while they fulfil the conditions of public elementary schools they shall continue to receive the parliamentary grant, unless they are taken over by the local authority.

NOTES TO
SECT. 15.

It is not fair, however, to the local authority that children should be collected from various parts of the United Kingdom and thrown on the rates of a particular local area. Therefore the section enacts that these schools shall be recognised as proper recipients of a parliamentary grant, and that the local authority shall have the option of taking them over if it so pleases.

Sect. 16. If the local education authority fail to fulfil any of their duties under the Elementary Education Acts, 1870 to 1900, or this Act, or fail to provide such additional public school accommodation within the meaning of the Elementary Education Act, 1870, as is, in the opinion of the Board of Education, necessary in any part of their area, the Board of Education may, after holding a public inquiry, make such order as they think necessary or proper for the purpose of compelling the authority to fulfil their duty, and any such order may be enforced by mandamus.

Power to
enforce
duties
under Ele-
mentary
Education
Acts.
33 & 34
Vict. c. 75.

NOTES.

Local Education Authority.—The local education authority must fulfil the duties transferred to it as successor to the school boards and school attendance committees under the Elementary Education Acts, 1870-1900 (*see* section 5, above). The authority must also fulfil the duties imposed upon it by this Act.

Public School Accommodation.—The Elementary Education Act, 1870, section 5, defined public school accommodation as “a sufficient amount of accommodation in public elementary schools (*see notes to section 5, above*) available for all the children resident in such district for whose elementary education efficient and suitable provision is not otherwise made.”

NOTES TO
SECT. 16.Public
school
accommo-
dation.

By Schedule III. (5) below it is provided that "the duty of a local education authority under the Education Acts, 1870-1902, to provide a sufficient amount of public school accommodation shall include the duty to provide a sufficient amount of public school accommodation without payment of fees in every part of their area."

The Day School Code, 1902-1903.—Article 85 (a) is as follows :—

The Day
School
Code,
1902,
Art. 85.
Conditions
relating to
(a) pre-
mises, staff,
furniture,
and appa-
ratus.

85. The Board must be satisfied :

(a) that the school premises are healthy, are properly constructed and arranged for teaching, lighted, warmed, cleaned, drained and ventilated, are supplied with suitable offices, and contain sufficient accommodation for the scholars attending the school, and that the school has a sufficient staff (art. 73), and is properly provided with suitable desks and furniture, books, maps, and other apparatus of elementary instruction :

N.B. The plans of all new school premises and enlargements must be approved by the Board before such new premises and enlargements are passed under this Article. The numbers for which such new premises and enlargements are passed will be settled by the Board. Subject to the conditions laid down in the body of this article being fully satisfied, schools already receiving annual grants will be regarded as accommodating the number of scholars for which they have been hitherto recognised by the Board, provided that in no case there shall be less than 80 cubic feet of internal space and 8 square feet of internal area for each unit of average attendance. If in the neighbourhood of any school there is a deficiency of school accommodation, which is being supplied with due dispatch, the accommodation of that school may with the consent of the Board be temporarily calculated at 80 cubic feet and 8 square feet for each unit of average attendance.

No room may be habitually used for a larger number of scholars than that for which it is passed by the Board.

Public Inquiry.—By section 23 (10) below, the Elementary Education Act, 1870, section 73 is to apply to any public inquiry held by the Board of Education under this Act. Section 73 is as follows :—

NOTES TO
SECT. 16.
—
Elementary Edu-
cation Act,
1870,
sect. 73.

Section 73.—“Where a public inquiry is held in pursuance of the provisions of this Act, the following provisions shall have effect :—

- (1.) The Education Department shall appoint some person who shall proceed to hold the inquiry :
- (2.) The person so appointed shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood to which the subject of inquiry relates, and thereat shall hear, receive, and examine any evidence and information offered, and hear and inquire into any objections or representations made respecting the subject of the inquiry, with power from time to time to adjourn any sitting.

Notice shall be published in such manner as the Education Department direct of every such sitting (except an adjourned sitting) seven days at least before the holding thereof :

- (3.) The person so appointed shall make a report in writing to the Education Department setting forth the result of the inquiry, and stating his opinion on the subject thereof, his reasons for such opinion, and the objections and representations, if any, made on the inquiry and his opinion thereon ; and the Education Department shall cause a copy of such report to be deposited with the school board and notice of such deposit to be published :
- (4.) The Education Department may make an order directing that the costs of the proceedings and inquiry shall be paid, according as they think just, either by the district as if they were expenses of a school board, or by the applicants for the inquiry ; and such costs may be recovered, in the former case, as a debt due from the school board, and in the case of the applicants as a debt due jointly and severally from them ; and the Educa-

NOTES TO
SECT. 16.

Public
inquiry.

tion Department may, if they think fit, before ordering the inquiry to be held, require the applicants to give security for such expenses, and in case of their refusal may refuse to order the inquiry to be held."

Mandamus.—This is a writ issuing from the King's Bench Division, the general object of it being to enforce some duty of a public nature with respect of which there is no other specific legal remedy. The application must be made by counsel, and cannot be made by a party in person; it can only be made on behalf of a person who has a real interest in requiring the duty to be performed.

PART IV.

GENERAL.

Education
commit-
tees.

Sect. 17.—(1.) Any council having powers under this Act shall establish an education committee or education committees, constituted in accordance with a scheme made by the council and approved by the Board of Education: Provided that if a council having powers under Part II. only of this Act determine that an education committee is unnecessary in their case, it shall not be obligatory on them to establish such a committee.

(2.) All matters relating to the exercise by the council of their powers under this Act, except the power of raising a rate or borrowing money, shall stand referred to the education committee, and the council, before exercising any such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of the education committee with respect to the matter in question. The council may also delegate to the education committee, with or without any restrictions or conditions as they think fit, any of their powers under this Act, except the power of raising a rate or borrowing money.

(3.) Every such scheme shall provide—

- (a) for the appointment by the council of at least a majority of the committee, and the persons so appointed shall be persons who are members of the council, unless, in the case of a county, the council shall otherwise determine ;
- (b) for the appointment by the council, on the nomination or recommendation, where it appears desirable, of other bodies (including associations of voluntary schools), of persons of experience in education, and of persons acquainted with the needs of the various kinds of schools in the area for which the council acts ;
- (c) for the inclusion of women as well as men among the members of the committee ;
- (d) for the appointment, if desirable, of members of school boards existing at the time of the passing of this Act as members of the first committee.

(4.) Any person shall be disqualified for being a member of an education committee, who, by reason of holding an office or place of profit, or having any share or interest in a contract or employment, is disqualified for being a member of the council appointing the education committee, but no such disqualification shall apply to a person by reason only of his holding office in a school or college aided, provided, or maintained by the council.

(5.) Any such scheme may, for all or any purposes of this Act, provide for the constitution of a separate education committee for any area within a county, or for a joint education committee for any area formed by a combination of counties, boroughs, or urban districts, or of parts thereof. In the case of any such joint committee, it shall suffice that a majority of the members are appointed by the councils of any of the counties, boroughs, or districts out of which or parts of which the area is formed

SECT. 17.

(6.) Before approving a scheme, the Board of Education shall take such measures as may appear expedient for the purpose of giving publicity to the provisions of the proposed scheme, and, before approving any scheme which provides for the appointment of more than one education committee, shall satisfy themselves that due regard is paid to the importance of the general co-ordination of all forms of education.

(7.) If a scheme under this section has not been made by a council and approved by the Board of Education within twelve months after the passing of this Act, that Board may, subject to the provisions of this Act, make a provisional order for the purposes for which a scheme might have been made.

(8.) Any scheme for establishing an education committee of the council of any county or county borough in Wales or of the county of Monmouth or county borough of Newport shall provide that the county governing body constituted under the Welsh Intermediate Education Act, 1889, for any such county or county borough shall cease to exist, and shall make such provision as appears necessary or expedient for the transfer of the powers, duties, property, and liabilities of any such body to the local education authority under this Act, and for making the provisions of this section applicable to the exercise by the local education authority of the powers so transferred.

52 & 53
Vict. c. 40

NOTES.

The Education Committees :—

A. How Established.—One of the first duties of a council having powers under the Act will be to establish an education committee or committees. The council of a borough with a population of 10,000 or less, and the council of an urban district with a population of 20,000 or less, have powers only with respect to higher education (concurrently with the county council) (*see* section 3, above), and they need not appoint an education committee unless they think it necessary.

B. Functions of Education Committee.—The power of raising a rate or borrowing money rests solely with the council. All other matters connected with the exercise by the council of powers under this Act stand referred to the education committee. If the matter is in its opinion urgent, the council may determine it without reference to the committee. Otherwise the council themselves receive and consider the report of the education committee before exercising their powers. The council may, if it so chooses, delegate to the education committee any of its powers under the Act (except those relating to raising a rate or borrowing money). If it does so delegate its powers or any of them it may impose such resolutions or conditions as it thinks fit.

C. Schemes must include the following Provisions.—The council proposing to establish an education committee must make a scheme for the same, which must be approved by the Board of Education within 12 months after the passing of the Act. If the council fails to carry this out, the Board of Education may make a provisional order for the purposes for which the scheme might have been made. Any scheme under this Act, when approved, has effect as if enacted in the Act, and any such scheme or any provisional order made for the purposes of such scheme may be revoked or altered by a scheme made in like manner and have the same effect as the original scheme (section 21 (3)). In preparing the scheme the council must, if the council of a county borough or borough, provide that the majority of the members of the committee shall be not only appointed by the council but also be members of the council.

The council of a county preparing a scheme must provide that the majority of the committee be appointed by them, but it is optional with the council to determine whether or not the members of the majority should also be members of the council.

The council must also by its scheme provide for the appointment on the education committee of persons of experience in education and persons acquainted with the needs of the various kinds of schools in the area for which the council acts. These persons may, if desirable, be nominated or recommended by other bodies, such as associations of voluntary schools.

NOTES TO
SECT. 17.

The
education
com-
mittee.

It is expressly enacted that women *must* be included as well as men amongst the members of the committee. Women are not in any way disqualified, by sex or marriage, from being on any body of managers or education committee under the Act (section 23 (6)).

The scheme must also provide for the appointment, if desirable, of members of school boards existing at the time of the passing of the Act as members of the first committee.

Teachers or other office holders in a school or college (including any educational institution whether residential or not) (section 24 (4)), are not disqualified from being on an education committee.

Persons (other than teachers, &c., as mentioned above), who, by reason of holding an office or place of profit or having any share or interest in a contract or employment, would be disqualified from being members of the council will also be disqualified from being members of the education committee appointed by the council.

If it is thought desirable, the council may make a scheme to provide for a separate education committee for any area within a county. On the other hand larger areas may be provided for by the constitution of a joint education committee for a combination of counties, boroughs, or urban districts or parts of them. Where such joint committee is appointed, the majority of its members must be appointed by the councils forming the combination.

The provisions of any scheme proposed will, before the approval by the Board of Education, be notified publicly in the locality. If any scheme provides for the appointment of more than one education committee due regard must be paid to the importance of the general co-ordination of all forms of education.

D. Regulations for Education Committees.—The provisions of the Act as to these will be found in Schedule I., A, below.

Welsh Intermediate Education Act, 1889.—This Act was passed in order to promote secondary and technical education in Wales and Monmouthshire. Joint education committees were appointed to prepare schemes for their respective counties; the schemes being submitted to the Charity Commissioners for approval, as in the case of endowed schools.

In accordance with the schemes presented by these committees, schools were established in every county, and for the purpose of carrying these on there was constituted a "county governing body" consisting of representatives elected by the county council and other local bodies, and also a body of local governors for each individual school.

In 1896 a Central Education Board, consisting of representatives from each county council, county governing body, and various other bodies connected with education, was established, which has a general supervision over the county governing bodies, and arranges for the inspection and examination of schools. The Welsh Intermediate Education Act is not repealed, but by virtue of the section 17 (8) above the "county governing bodies" cease to exist, and the scheme for establishing an education committee therein will provide for the transfer of the powers, duties, property and liabilities of those bodies to the local education authority. Neither the existence, nor the powers and duties of the Welsh Central Education Board are directly affected by the Education Act, 1902.

Sect. 18.—(1.) The expenses of a council under this Act shall, so far as not otherwise provided for, be paid, in the case of the council of a county out of the county fund, and in the case of the council of a borough out of the borough fund or rate, or, if no borough rate is levied, out of a separate rate to be made, assessed, and levied in like manner as the borough rate, and in the case of the council of an urban district other than a borough in manner provided by section thirty-three of the Elementary Education Act, 1876, as respects the expenses mentioned in that section: Provided that—

NOTES TO
SECT. 17.

Expenses.
39 & 40
Vict. c. 79.

- (a) the county council may, if they think fit (after giving reasonable notice to the overseers of the parish or parishes concerned), charge any expenses incurred by them under this Act with respect to education other than elementary on any parish or parishes which, in the opinion of the council, are served by the school or college in connexion with which the expenses have been incurred; and

SECT. 18.

- (b) the county council shall not raise any sum on account of their expenses under Part III. of this Act within any borough or urban district the council of which is the local education authority for the purposes of that part ; and
- (c) the county council shall charge such portion as they think fit, not being less than one-half or more than three-fourths, of any expenses incurred by them in respect of capital expenditure or rent on account of the provision or improvement of any public elementary school on the parish or parishes which, in the opinion of the council, are served by the school ; and
- (d) the county council shall raise such portion as they think fit, not being less than one-half or more than three-fourths, of any expenses incurred to meet the liabilities on account of loans or rent of any school board transferred to them, exclusively within the area which formed the school district in respect of which the liability was incurred, so far as it is within their area.

(2.) All receipts in respect of any school maintained by a local education authority, including any parliamentary grant, but excluding sums specially applicable for purposes for which provision is to be made by the managers, shall be paid to that authority.

(3.) Separate accounts shall be kept by the council of a borough of their receipts and expenditure under this Act, and those accounts shall be made up and audited in like manner and subject to the same provisions as the accounts of a county council, and the enactments relating to the audit of those accounts and to all matters incidental thereto and consequential thereon, including the penal provisions, shall apply in lieu of the provisions of the Municipal Corporations Act, 1882, relating to accounts and audit.

(4.) Where under any local Act the expenses incurred in any borough for the purposes of the Elementary Education Acts, 1870 to 1900, are payable out of some fund or rate other than the borough fund or rate, the expenses of the council of that borough under this Act shall be payable out of that fund or rate instead of out of the borough fund or rate. SECT. 18.

(5.) Where any receipts or payments of money under this Act are entrusted by the local education authority to any education committee established under this Act, or to the managers of any public elementary school, the accounts of those receipts and payments shall be accounts of the local education authority, but the auditor of those accounts shall have the same powers with respect to managers as he would have if the managers were officers of the local education authority.

NOTES.

Not otherwise provided for.—See section 2, above, and section 19 and Schedule II. (5) below.

County Fund.—All moneys received by or on behalf of a county council from any source other than the Imperial Exchequer, are carried, at the present time, to its “county fund account.”

Money can only be drawn out of the county fund account by the county treasurer on an order of the council, signed by at least three members of the county finance committee.

The expenses of a county council under this Act so far as not otherwise provided for are payable out of this fund.

A county council levies a “county rate” under the County Rates Act, 1852 (15 & 16 Vict. c. 81); for this purpose each county council has an assessment committee of its own, which may either adopt the existing poor law valuation or make one of its own. It divides the amount to be raised amongst the various parishes in the county according to the value of the property comprised in each parish. The council issues its precept to the guardians of each union bidding them collect from each parish (outside a quarter sessions borough) the amount so found due from it. The guardians pay the amount

NOTES TO
SECT. 18.
County
fund.

to the county treasurer, and recovers it from the overseers of each parish. If the county council be not paid by the guardians within the time named in the precept the county council may, themselves, order the overseers to collect the amount due from each parish.

Borough Fund.—All moneys received by a borough in the ordinary course of its affairs (rates, fees, rents, and profits from corporate property, &c.) are paid into a fund called the borough fund, and out of this fund is drawn all the money necessary for the ordinary expenditure of the borough.

As regards a borough rate, the council assess the amount to be contributed by each parish: the assessment is based on the poor rate valuation unless it is thought necessary to have a special valuation, and the overseers are responsible for the collection of the rate.

Where, under any local Act, the expenses incurred in any borough for the purposes of the Elementary Education Acts, 1870 to 1900, are payable out of some fund or rate other than the borough fund or rate, the expenses of the council of that borough under this Act will be payable out of that fund or rate instead of out of the borough fund or rate.

Separate Accounts to be kept in a Borough.—Separate accounts must be kept by the council of a borough of their receipts and expenditure under this Act, and those accounts must be made up and audited in like manner and subject to the same provisions as the accounts of a county council, and the enactments relating to the audit of these accounts and to all matters incidental thereto, and consequential thereon, including the penal provisions, will apply in lieu of the provisions of the Municipal Corporation Act, 1888, relating to accounts and audit. The effect of this is that the accounts will be audited by the auditor of the Local Government Board under the District Auditors' Act, 1879, instead of by the borough auditor as at present.

The expenditure of school boards has been subject to audit by the Local Government Board, and the expenditure for educational purposes by a borough will now be subject to a like audit. The other expenses of the borough will continue to be audited, as at present, by the borough auditor.

NOTES TO
SECT. 18.Elementary Edu-
cation Act,
1870,
sect. 33.

Expenses of an Urban District Council.—The expenses of an urban district council incurred under this Act will be paid in the manner provided by section 33 of the Elementary Education Act, 1876. This section provides that the expenses shall be paid out of a fund raised out of the poor rate of the parish or parishes comprised in the district of such authority, according to the rateable value of each parish and the authority, will, for the purpose of obtaining payment of such expenses, have the same power as a board of guardians have for the purpose of obtaining contributions to their common fund under the Acts relating to the relief of the poor, and the accounts of such expenses will be audited as the accounts of other expenses of the authority.

Under Schedule II. (4) below, any liability of an urban district council incurred under the Technical Instruction Acts, 1889 and 1891, now repealed by this Act, will be charged on the fund or rate out of which the expenses of the council are payable—viz., the poor rate.

Apportionment of Expenses :—

- (i.) Expenses incurred by a county council under this Act with respect to education other than elementary may, if the county council think fit, be charged on any parish or parishes which, in the opinion of the county council, are served by the school or college in connection with which the expenses have been incurred.
- (ii.) The county council must not raise any sums on account of their expenses for elementary education within any borough or urban district, the council of which is the “local education authority” for the purposes of this Act.

The council of a borough with a population of over 10,000, or of an urban district with a population of over 20,000 will, as respects that borough or district, be the local education authority (section 1).

It should be remembered that the council of any non-county borough or urban district may, at any time after December 18th, 1902, by agreement with the council of the county, and with the approval of the Board of Education, relinquish in favour of the council of the county any of their powers and duties under this Act,

NOTES TO
SECT. 18.Appor-
tionment
of expenses

and in that case the powers and duties of the authority so relinquished shall cease, and the area of the authority, if the powers and duties relinquished include powers as to elementary education, will, as respects those powers, be part of the area of the county council (section 20).

- (iii.) Expenses incurred by a county council in respect of capital expenditure or rent on account of the provision or improvement of any public elementary school will be charged, as to not less than one-half or more than three-fourths, on the parish or parishes which, in the opinion of the council, are served by the school. The exact proportion of the expenses to be charged will be determined by the council, subject to the limitations above.
- (iv.) Expenses incurred by the county council to meet the liabilities on account of loans or rent of any school board transferred to a county council, will be charged, as to not less than one-half nor more than three-fourths, exclusively within the area which formed the school district in respect of which the liability was incurred, so far as it is within their area. The exact proportion of the expenses to be charged will be determined by the council, subject to the limitations above.

Receipts and Payments.—All receipts in respect of any school maintained by a local education authority, including any parliamentary grant, but excluding sums specially applicable for purposes for which provision is to be made by the managers will be paid to that authority.

Under section 7 above, in the case of non-provided schools, the managers have to maintain the buildings, &c.: for this purpose, in addition to voluntary subscriptions, there are available in certain cases endowments and school fees.

Under section 13, above, where the income of any endowment must be applied in whole or in part for those purposes of a public elementary school for which provision is to be made by the local education authority, the whole of the income or the part thereof, as the case may be, will be paid to the authority. Under section 14, above, where before December 18th, 1902, fees have been charged in any non-provided school, the authority, while it continues to allow such fees to be

charged, shall pay such a proportion of those fees as may be agreed upon, or, in default determined by the Board of Education, to the managers. NOTES TO
SECT. 18.

Where any receipts and payments of money under this Act are entrusted by the local education authority to any education committee established under this Act, or to the managers of any public elementary school, the accounts of those receipts and payments will be accounts of the local education authority; the auditor of these accounts, however, will have the same powers with respect to managers as he would have if the managers were officers of the local education authority.

Sect. 19.—(1.) A council may borrow for the purposes of the Elementary Education Acts, 1870 to 1900, or this Act, in the case of a county council as for the purposes of the Local Government Act, 1888, and in the case of the council of a county borough, borough, or urban district as for the purposes of the Public Health Acts, but the money borrowed by a county borough, borough, or urban district council shall be borrowed on the security of the fund or rate out of which the expenses of the council under this Act are payable. Borrowing
51 & 52
Vict. c. 41.

(2.) Money borrowed under this Act shall not be reckoned as part of the total debt of a county for the purpose of section sixty-nine of the Local Government Act, 1888, or as part of the debt of a county borough, borough, or urban district for the purpose of the limitation on borrowing under subsections two and three of section two hundred and thirty-four of the Public Health Act, 1875. 38 & 39
Vict. c. 55

NOTES.

Borrowing.—The Act permits borrowing for the purposes of the Education Acts, 1870-1902, on the same footing as borrowing for other local government purposes by the authorities concerned under the Local Government Act, 1888, or the Public Health Acts, as the case may be. A county council will only have power to spread the repayment of these loans over thirty years, whereas under section 10 of the Elementary

NOTES TO SECT. 19. Education Act, 1873 (repealed by this Act), the school board had power, with the consent of the Board of Education, to borrow spread a loan over any period not exceeding fifty years.

In the case of money borrowed by a county borough, borough, or urban district council, it will be borrowed on the security of the fund or rate out of which the expenses of the council under this Act are payable (*see* section 18).

Any loans transferred to a council under this Act, will for the purpose of the limitation on the powers of the council to borrow, be treated as money borrowed under this Act (sched. II. (3)).

The Local Government Board must give its consent to the exercise of borrowing powers by any of the councils above.

The Local Government Act, 1888, Section 69 (2), provides that where the total debt of the county council exceeds one tenth of the annual rateable value of the rateable property in the county, a provisional order by the Local Government Board confirmed by Parliament is necessary.

Section 19 above enacts that money borrowed under this Act is not to be reckoned as part of the total debt of the county for the purposes of section 69 of the Local Government Act, 1888, for the purpose of limitation on borrowing.

The Public Health Act, 1875, section 234, sub-sections (2) and (3) provides that the sums borrowed shall not at any time exceed, with the balance of all outstanding loans, the assessable value for two years of the premises assessable within the district, and when the sum proposed to be borrowed with such balance (if any) would exceed the assessable value for one year of such premises, the Local Government Board will not give their sanction to such loan until after a local inquiry by one of their inspectors.

Section 19 above provides that money borrowed under this Act shall not be reckoned as part of the debt of a county borough, borough, or urban district for the purpose of limitation on borrowing under subsections (2) and (3) of section 234 of the Public Health Act, quoted above.

Sect. 20. An authority having powers under this Act— SECT. 20.

(a) may make arrangements with the council of any county, borough, district, or parish, whether a local education authority or not, for the exercise by the council, on such terms and subject to such conditions as may be agreed on, of any powers of the authority in respect of the management of any school or college within the area of the council; and Arrange -
ments be
tween
councils

(b) if the authority is the council of a non-county borough or urban district may, at any time after the passing of this Act, by agreement with the council of the county, and with the approval of the Board of Education, relinquish in favour of the council of the county any of their powers and duties under this Act, and in that case the powers and duties of the authority so relinquished shall cease, and the area of the authority, if the powers and duties relinquished include powers as to elementary education, shall, as respects those powers, be part of the area of the county council.

An Authority having powers under this Act.—The local education authorities are the council of every county, the council of every county borough, the council of a borough with a population over 10,000 and the council of an urban district with a population of over 20,000: the councils of the boroughs and urban districts being “local education authorities” for the purposes of elementary education only (*see* section 1): in addition to this the council of any non-county borough or urban district, irrespective of size has power as to higher education (*see* section 3, above) concurrently with the county council.

Delegation of Powers.—Any of these authorities may delegate to the council of any county, borough, district, or parish any of their powers as to the management of any school or college, including any educational institution whether residential or not (*see* sect. 24 (4) below). This delegation of powers may be made conditionally or without restriction, at the will of the authority.

NOTES TO
SECT. 20.

Relinquishment of Powers.—The council of any non-county borough or urban district, irrespective of size, may at any time after December 18, 1902, by agreement with the county council and with the approval of the Board of Education, relinquish in favour of the county council any of its powers under this Act. When it does so, any property or rights acquired and any liabilities incurred for the purpose of the performance of the powers and duties relinquished, including any property or rights vested or arising, or any liabilities incurred, under any local Act or trust deed, will be transferred to the county council (*see* schedule II. (2) below).

Provisional orders and schemes.
38 & 39
Vict. c. 55.

Sect. 21.—(1.) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875 (which relate to provisional orders), shall apply to any provisional order made under this Act as if it were made under that Act, but references to a local authority shall be construed as references to the authority to whom the order relates, and references to the Local Government Board shall be construed as references to the Board of Education.

(2.) Any scheme or provisional order under this Act may contain such incidental or consequential provisions as may appear necessary or expedient.

(3.) A scheme under this Act when approved shall have effect as if enacted in this Act, and any such scheme, or any provisional order made for the purposes of such a scheme, may be revoked or altered by a scheme made in like manner and having the same effect as an original scheme.

NOTES.

Provisional Orders made under this Act.—See section 17 (7) above.

The Public Health Act, 1875.—Section 297 is as follows (*reference to the Local Government Board therein being construed as reference to the Board of Education for the purposes of section 21 of this Act*):—

“With respect to provisional orders authorised to be made by the *Local Government Board* under this Act the following enactments shall be made :

NOTES TO
SECT. 21

Public
Health
Act, 1875,
Sect. 297.

- (1.) The *Local Government Board* shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates :
- (2.) Before making any such provisional order the *Local Government Board* shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections :
- (3.) The *Local Government Board* may submit to Parliament for confirmation any provisional order made by it in pursuance of this Act, but any such order shall be of no force whatever unless and until it is confirmed by Parliament :
- (4.) If while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to such order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private bills :
- (5.) Any Act confirming any provisional order made in pursuance [of any of the *Sanitary Acts*, or] of this Act, [and any Order in Council made in pursuance of any of the *Sanitary Acts*] may be repealed, altered, or amended by any provisional order made by the *Local Government Board* and confirmed by Parliament :
- (6.) The *Local Government Board* may revoke, either wholly or partially, any provisional order made by them before the same is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the order is pending in either House of Parliament :

NOTES TO
SECT. 21.

Public
Health
Act, 1875,
Sect. 297.

(7.) The making of a provisional order shall be *prima facie* evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such provisional order have been complied with :

(8.) Every Act confirming any such provisional order shall be deemed to be a public general Act.

Section 298.—“The reasonable costs of any local authority [*i.e.*, any authority to whom the order relates under section 21 above] in respect of provisional orders made in pursuance of this Act, and of the inquiry preliminary thereto, as sanctioned by the *Local Government Board*, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred for the purposes of this Act by the local authority interested in or affected by such provisional orders, and such costs shall be paid accordingly ; and if thought expedient by the *Local Government Board*, the local authority may contract a loan for the purpose of defraying such costs.

Provision
as to
elemen-
tary and
higher
education
powers
respect-
ively.

Sect. 22.—(1.) In this Act and in the Elementary Education Acts the expression “elementary school” shall not include any school carried on as an evening school under the regulations of the Board of Education.

(2.) The power to provide instruction under the Elementary Education Acts, 1870 to 1900, shall, except where those Acts expressly provide to the contrary, be limited to the provision in a public elementary school of instruction given under the regulations of the Board of Education to scholars who, at the close of the school year, will not be more than sixteen years of age : Provided that the local education authority may, with the consent of the Board of Education, extend those limits in the case of any such school if no suitable higher education is available within a reasonable distance of the school.

(3.) The power to supply or aid the supply of education other than elementary includes a power to train teachers, and to supply or aid the supply of any education except where that education is given at a public elementary school.

NOTES.

NOTES TO
SECT. 22.

Evening Schools.—By reason of the provision in section 22 (1) above, the expression “elementary school” in the Education Acts, 1870–1902, does not include any school carried on as an evening school under the regulations of the Board of Education. The regulations referred to (available from August 1st, 1902, to July 31st, 1903) are reproduced in the Appendix below.

By reason of the provisions of section 22 (3) above, the rate for education other than elementary may be used for all forms of education and any kind of school except a public elementary school.

The money available from the local taxation fund (commonly called the “whiskey” money), under section 2, above, is also applicable for purposes of education in an evening school, even though the education given may include, in fact, elementary instruction to adults in that evening school: if the education given is in an evening continuation school it can be paid for out of that fund.

Age Limit.—The rule, under section 22 (2) above, is that the provision in a public elementary school of instruction given under the regulations of the Board of Education is to be limited to scholars of not more than sixteen years of age, at the close of the school year. Where, however, no suitable higher education is available “within a reasonable distance of the school” the local education authority may with the consent of the Board of Education extend those limits.

Within a reasonable distance.—This is not defined, but it is suggested that the Board of Education may be influenced in giving a decision on this point by the provisions of section 74 of the Elementary Education Act, 1870.

Section 74, in effect, provides that bye-laws may be made requiring the attendance of children at school, unless there is some reasonable excuse for their non-attendance.

The section then provides that the following reason, amongst others, shall be a reasonable excuse, viz.: “that there “is no public elementary school open which a child can attend “within such distance not exceeding three miles, measured “according to the nearest road, from the residence of such “child, as the bye-laws may prescribe.”

SECT. 23.

Miscellaneous provisions.

Sect. 23.—(1.) The powers of a council under this Act shall include the provision of vehicles or the payment of reasonable travelling expenses for teachers or children attending school or college whenever the council shall consider such provision or payment required by the circumstances of their area or any part thereof.

(2.) The power of a council to supply or aid the supply of education, other than elementary, shall include power to make provision for the purpose outside their area in cases where they consider it expedient to do so in the interests of their area, and shall include power to provide or assist in providing scholarships for, and to pay or assist in paying the fees of, students ordinarily resident in the area of the council at schools or colleges or hostels within or without that area.

(3.) The county councillors elected for an electoral division consisting wholly of a borough or urban district whose council are a local education authority for the purpose of Part III. of this Act, or of some part of such a borough or district, shall not vote in respect of any question arising before the county council which relates only to matters under Part III. of this Act.

(4.) The amount which would be produced by any rate in the pound shall be estimated for the purposes of this Act in accordance with regulations made by the Local Government Board.

51 & 52
Vict. c. 42.
54 & 55
Vict. c. 73.

(5.) The Mortmain and Charitable Uses Act, 1888, and so much of the Mortmain and Charitable Uses Act, 1891, as requires that land assured by will shall be sold within one year from the death of the testator, shall not apply to any assurance, within the meaning of the said Act of 1888, of land for the purpose of a school house for an elementary school.

(6.) A woman is not disqualified, either by sex or marriage, for being on any body of managers or education committee under this Act.

(7.) Teachers in a school maintained but not provided by the local education authority shall be in the same position as respects disqualification for office as members of the authority as teachers in a school provided by the authority. SECT. 23.

(8.) Population for the purposes of this Act shall be calculated according to the census of nineteen hundred and one.

(9.) Subsections one and five of section eighty-seven of the Local Government Act, 1888 (which relate to local inquiries), shall apply with respect to any order, consent, sanction, or approval which the Local Government Board are authorised to make or give under this Act. 51 & 52
Vict. c. 41.

(10.) The Board of Education may, if they think fit, hold a public inquiry for the purpose of the exercise of any of their powers or the performance of any of their duties under this Act, and section seventy-three of the Elementary Education Act, 1870, shall apply to any public inquiry so held or held under any other provision of this Act. 33 & 34
Vict. c. 75.

NOTES.

Vehicles and Travelling Expenses.—Where the circumstances of the area or any part of it appear to a council having powers under this Act (*see* sections 1 and 3, above) to render the provision of vehicles or payment of travelling expenses necessary for teachers or children attending school or college the council may provide for the same as part of their expenses under this Act. The expression “college” includes any educational institution, whether residential or not (*see* section 24 (4) below).

This power applies to the provision of such travelling facilities in the case of elementary or higher education.

The Supply of Education, other than Elementary.—By section 22 (3) above, this includes the power to train teachers and supply or aid the supply of any education except where that education is given at a public elementary school.

NOTES TO
SECT. 23.
The supply of
education.

By section 23 (2) the council is authorised to supply education other than elementary outside its area, if it is considered expedient in the interests of its area.

The council can, also, provide scholarships or pay the fees of students ordinarily resident in their area at schools, colleges, or hostels within or without that area.

The expression "college" includes any educational institution, whether residential or not.

County Councillors.—Where the electoral division for which a county councillor is elected consists wholly or in part of a borough with a population of over 10,000 or an urban district with a population of over 20,000, and the councils of these are local education authorities for elementary education, the county councillor for this electoral division must not vote on any question arising before the county council relating to elementary education.

Amount Produced by a Rate.—The Local Government Board will make regulations as to estimating the amount which would be produced by any rate in the pound.

Section 10 (1) (b) above, provides that in estimating the produce of a penny rate in the area of a local education authority not being a county borough, the rate will be calculated upon a county rate basis, which in cases where part only of a parish is situated in the area of the local education authority, will be apportioned in such manner as the Board of Education think just.

The Mortmain Acts.—*The Mortmain and Charitable Uses Act, 1888*, contains various restrictions on the power to dedicate property to charitable uses.

By section 23 (5) above these restrictions do not apply to any assurance, within the meaning of the Act of 1888, of land for the purpose of a school house for an elementary school.

Section 10 of the Act of 1888 defines "assurance" as including a gift, conveyance, appointment, lease, transfer, settlement, mortgage, charge, encumbrance, devise, bequest, and every other assurance by deed, will, or other instrument.

The Mortmain and Charitable Uses Act, 1891, by section 5 provided that land may be assured by will for a charitable use,

but such land, notwithstanding anything in the will to the contrary, must be sold within one year from the death of the testator.

NOTES TO
SECT. 23.

By section 23 (5) above, this provision as to sale of land left by will within one year from the death of testator does not apply to land left by will for the purpose of a school house for an elementary school.

School house.—This means “the teacher’s dwelling-house, and playground (if any), and the offices and premises belonging to or required for a school.”

Elementary School.—This means “a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction from each scholar exceed ninepence a week.”

Women.—Under section 17 (3) (d) above, it is expressly enacted that every scheme for the establishment of an education committee must provide for the inclusion of women as well as men among the members of the committee.

Teachers.—Teachers in a school whether “provided” or “non-provided,” which is maintained by a local education authority (*see* section 7, above), will be disqualified for office as members of the authority, but, under section 17 (4) above, no such disqualification will apply as regards membership of an education committee to any person by reason only of his holding office in a school or college aided, provided, or maintained by the council.

The Local Government Act, 1888, Section 87.—(1.) Where the Local Government Board are authorised by this Act to make any inquiry, to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, sanction or approval to any matter, or otherwise to act under the Act, they may cause to be made a local inquiry, and in that case, and also in a case where they are required by this Act to cause to be made a local inquiry, sections 293 to 296, both inclusive, of the Public Health Act, 1875, shall apply as if they were herein re-enacted, and in terms made applicable to this Act.

NOTES TO
SECT. 23.

The Local
Govern-
ment Act,
1888.
Sect. 87.

(5.) Where the Board cause any local inquiry to be held under this Act, the costs incurred in relation to such inquiry, including the salary of any inspector or officer of the board engaged in such inquiry, not exceeding three guineas a day, shall be paid by the council and other authorities concerned in such inquiry, or by such of them and in such proportions as the board may direct, and the board may certify the amount of the costs incurred, and any sums so certified and directed by the board to be paid by any council or authority shall be a debt to the Crown from such council or authority.

The Public
Health
Act, 1875.
secs. 293-
296.

The Public Health Act, 1875, ss. 293-296 (referred to in sec. 87 of the Local Government Act, 1888, above).

Section 293. The Local Government Board may from time to time cause to be made such inquiries as are directed by this Act and such inquiries as they see fit in relation to any matters concerning the public health in any place or any matters with respect to which their sanction, approval, or consent is required by this Act.

Section 294. The Local Government Board may make orders as to the cost of inquiries or proceedings instituted by or appeals to the said Board under this Act, and as to the parties by whom or the rates out of which such costs shall be borne ; and every such order may be made a rule of one of the superior courts of law on the application of any person named therein.

Section 295. Any orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matter to which they refer, and shall be published in such manner as that Board may direct.

Section 296. Inspectors of the Local Government Board shall, for the purpose of any inquiry directed by the Board, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of these Acts.

Public Inquiries by Board of Education. By section 23 (10) above in the case of public inquiries by the Board of Education section 73 of the Elementary Education Act, 1870, is to apply. This section 73 is set out in full in the notes to section 16 (page 103) above.

Sect. 24.—(1.) Unless the context otherwise requires, any expression to which a special meaning is attached in the Elementary Education Acts, 1870 to 1900, shall have the same meaning in this Act. SECT. 24.
Interpre-
tation.

(2.) In this Act the expression “minor local authority” means, as respects any school, the council of any borough or urban district, or the parish council or (where there is no parish council) the parish meeting of any parish which appears to the county council to be served by the school. Where the school appears to the county council to serve the area of more than one minor local authority the county council shall make such provision as they think proper for joint appointment of managers by the authorities concerned.

(3.) In this Act the expressions “powers,” “duties,” “property,” and “liabilities” shall, unless the context otherwise requires, have the same meanings as in the Local Government Act, 1888.

51 & 52
Vict. c. 41.

(4.) In this Act the expression “college” includes any educational institution, whether residential or not.

(5.) In this Act, unless the context otherwise requires, the expression “trust deed” includes any instrument regulating the trusts or management of a school or college.

NOTES.

Elementary Education Acts, 1870-1900.—In section 3 of the Elementary Education Act, 1870, the following terms are thus defined:—

“*Parish*” means a place for which for the time being a separate poor rate is or can be made.

“*Person*” includes a body corporate.

“*H.M. Inspectors*” means Inspectors appointed by His Majesty on the recommendation of the Board of Education.

“*Managers*” include all persons who have the management of any elementary school whether the legal interest in the school house is or is not vested in them.

NOTES TO
SECT. 24.Elementary Edu-
cation
Acts,
1870-1900

"*Teacher*" includes assistant teacher, pupil teacher, sewing mistress, and every person who forms part of the educational staff of a school.

"*Parent*" includes guardian and every person who is liable to maintain or has the actual custody of any child.

"*Elementary*" and "*Public Elementary*" *School* are defined in the notes to section 5, above.

"*School house*" includes the teacher's dwelling-house (but see section 7 (1) (d) above) and the playground (if any) and the offices and all premises belonging to or required for a school.

"*Ratepayer*" includes every person who under the provisions of the Poor Rate Assessment Act, 1869, is deemed to be duly rated.

"*Parliamentary Grant*" means a grant made in aid of an elementary school, either annually or otherwise, out of moneys provided by Parliament for the civil service intituled "For Public Education in Great Britain."

In section 27 of the Elementary Education Act, 1873, the following terms are thus defined:—

"*Guardians*" includes any body of persons performing the functions of guardians within the meaning of the Acts relating to the relief of the poor.

"*Union*" means any union or incorporation of parishes under any general or local Act, and any single parish having guardians as defined by this Act under any general or local Act.

"*Common Fund*" means in the case of a union which comprises only one parish the fund applicable to the relief of the poor of such parish.

In Section 48 of the Elementary Education Acts, 1876, the following terms are thus defined:—

"*Certified Efficient School*" means a public elementary school, and any workhouse school certified to be efficient by the Local Government Board, and any elementary school which is not conducted for private profit, and is open at all reasonable times to the inspection of H.M.

Inspectors and requires the like attendance from its scholars as is required in a public elementary school, and keeps such registers of those attendances as may be required by the Board of Education and is certified by the Board of Education to be an efficient school.

NOTES TO
SECT. 24.
—

“*Factory Acts*” means any Acts for the time being in force regulating factories or workshops.

“*Secretary of State*” means one of H.M. principal Secretaries of State.

In section 10 of the Elementary Education Act of 1891 the following term is thus defined :—

“*School Year*” means a year or other period for which an annual parliamentary grant is for the time being paid or payable under the minutes of the Board of Education.

In the Elementary Education (Blind and Deaf Children) Act, 1891, section 15, the following terms are thus defined :—

“*Blind*” means too blind to be able to read the ordinary school books used by children.

“*Deaf*” means too deaf to be taught in a class of hearing children in an elementary school.

“*School*” includes any institution in which blind or deaf children are boarded or lodged as well as taught, and any establishment for boarding or lodging children taught in a certified school.

“*Elementary Education*” may include industrial training, whether given in the school which the child attends or not.

“*Maintenance*” includes clothing.

“*Expenses*,” when used in relation to a child, includes the expenses of and incidental to the attendance of the child at a school, and of and incidental to the maintenance and boarding-out of the child while so attending, and the expenses of conveying the child to or from the school.

In the Elementary Education (Defective and Epileptic Children) Act, 1899, section 14, the following word is thus defined :—

“*School*” includes any institution in which defective or epileptic children are boarded or lodged as well as taught, and any establishment for boarding or lodging children taught in a certified special class or school.

NOTES TO
SECT. 24.

Minor Local Authority.—As to this, *see* sections 6 and 12 above.

The Local Government Act, 1888, section 100, enacts that the following terms have the meanings hereinafter respectively assigned to them :—

Powers.—The expression “powers” includes rights, jurisdiction, capacities, privileges, and immunities.

Duties.—The expression “duties” includes responsibilities and obligations.

Liabilities.—The expression “liabilities” includes liability to any proceedings for enforcing any duty or for punishing the breach of any duty, and includes all debts and liabilities to which any authority are or would but for this Act be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and includes any obligation to carry or apply any money to any sinking fund, or to any particular purpose.

The expression “powers, duties, and liabilities” includes all powers, duties, and liabilities conferred or imposed by or arising under any local and personal Act.

Property.—The expression “property” includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books, and documents; and when used in relation to any quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in trust for, or would but for this act have, on or after that day, belonged to, or been vested in, or held in trust for, such quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority; and the expression property shall further include in the case of the county of Chester any surplus revenue of the River Weaver Trust, which is or would but for this Act be payable to the quarter sessions.

Trust Deed.—Under section 24 (5) the expression “trust deed” includes “any instrument regulating the trusts or management of a school.”

NOTES TO
SECT. 24.

For the purposes of this Act therefore the term “trust-deed” includes not only deeds in the ordinary sense, but also any of the following instruments if they provide for the appointment of trustees or give directions for the management of a school or its endowments, viz. :—

- i. Orders of the Court of Chancery ;
- ii. Orders of a County Court under the Charitable Trusts Acts, 1853 and 1860 ;
- iii. Orders of the Charity Commissioners ;
- iv. Schemes made under the Endowed Schools Acts ;
- v. Schemes made by the Education Department under section 75 of the Elementary Education Act of 1870 ;
- vi. In the case of privately-owned schools, a lease or agreement in writing by which a school is let to managers for the purposes of a school may be usually regarded as a trust-deed, and any trust declared therein attaches to the whole of the tenants' interest, whatever it may be. (See Board of Education Memorandum *re* Foundation Managers (paragraph 11) in the Appendix.)

Sect. 25.—(1.) The provisions set out in the first and second schedules to this Act relating to education committees and managers, and to the transfer of property and officers, and adjustment, shall have effect for the purpose of carrying the provisions of this Act into effect.

Provisions as to proceedings, transfer, &c., application of enactments and repeal.

(2.) In the application of the Elementary Education Acts, 1870 to 1900, and other provisions referred to in that schedule, the modifications specified in the third schedule to this Act shall have effect.

(3.) The enactments mentioned in the fourth schedule to this Act shall be repealed to the extent specified in the third column of that schedule.

Sect. 26. For the purposes of this Act the council of the Isles of Scilly shall be the local education authority for the Scilly Islands, and the expenses of the council under this Act shall be general expenses of the council.

Application of Act to Scilly Islands.

SECT. 27.

Extent,
com-
mence-
ment, and
short title.

Sect 27.—(1.) This Act shall not extend to Scotland or Ireland, or, except as expressly provided, to London.

(2.) This Act shall, except as expressly provided, come into operation on the appointed day, and the appointed day shall be the twenty-sixth day of March nineteen hundred and three, or such other day, not being more than eighteen months later, as the Board of Education may appoint, and different days may be appointed for different purposes and for different provisions of this Act, and for different councils.

1 Edw. 7,
c. 11.
2 Edw. 7,
c. 19.

(3.) The period during which local authorities may, under the Education Act, 1901, as renewed by the Education Act, 1901 (Renewal) Act, 1902, empower school boards to carry on the work of the schools and classes to which those Acts relate shall be extended to the appointed day, and in the case of London to the twenty-sixth day of March nineteen hundred and four.

(4.) This Act may be cited as the Education Act, 1902, and the Elementary Education Acts, 1870 to 1900, and this Act may be cited as the Education Acts, 1870 to 1902.

NOTES.

The Education Act, 1901 (Renewal) Act, 1902, enables the council of the county or county borough or, with the sanction of the Board of Education, any other local authority under the Technical Instruction Acts, 1889 and 1891, to empower school boards to carry on certain schools, etc., until July 31, 1903.

The schools or classes referred to are those which a school board has at any time during the 12 months immediately preceding July 31, 1902, maintained out of the school fund, to the maintenance of which the school fund is not lawfully applicable.

When any expenses incurred by a school board in respect of any such school or class before the said day are sanctioned by the Local Government Board, the legality of those expenses will not be questioned in any court.

Section 27 (3) of the Act above extends the period to the "appointed day" (*see* sect. 27 (2) above), and in the case of London to the 26th day of March, 1904.

SCHEDULES.

FIRST SCHEDULE.

PROVISION AS TO EDUCATION COMMITTEES AND MANAGERS. Sect. 25.

A.—*Education Committees.*

(1.) The council by whom an education committee is established may make regulations as to the quorum, proceedings, and place of meeting of that committee, but subject to any such regulations, the quorum, proceedings, and place of meeting of the committee shall be such as the committee determine.

(2.) The chairman of the education committee at any meeting of the committee shall, in case of an equal division of votes, have a second or casting vote.

(3.) The proceedings of an education committee shall not be invalidated by any vacancy among its members or by any defect in the election, appointment, or qualification of any members thereof.

(4.) Minutes of the proceedings of an education committee shall be kept in a book provided for that purpose, and a minute of those proceedings, signed at the same or next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting of the committee at which the minute is signed, shall be received in evidence without further proof.

(5.) Until the contrary is proved, an education committee shall be deemed to have been duly constituted and to have power to deal with any matter referred to in its minutes.

(6.) An education committee may, subject to any directions of the council, appoint such and so many sub-committees, consisting either wholly or partly of members of the committee, as the committee thinks fit.

B.—*Managers.*

(1.) A body of managers may choose their chairman, except in cases where there is an ex-officio chairman, and regulate their quorum and proceedings in such manner as they think fit, subject, in the case of the managers of a school provided by the local education authority, to any directions of that authority.

SCHED. I. Provided that the quorum shall not be less than three, or
B. Man- one-third of the whole number of managers, whichever is the
agers. greater.

(2.) Every question at a meeting of a body of managers shall be determined by a majority of the votes of the managers present and voting on the question, and in case of any equal division of votes the chairman of the meeting shall have a second or casting vote.

(3.) The proceedings of a body of managers shall not be invalidated by any vacancy in their number, or by any defect in the election, appointment, or qualification of any manager.

(4.) The body of managers of a school provided by the local education authority shall deal with such matters relating to the management of the school, and subject to such conditions and restrictions, as the local education authority determine.

(5.) A manager of a school not provided by the local education authority, appointed by that authority or by the minor local authority, shall be removable by the authority by whom he is appointed, and any such manager may resign his office.

(6.) The body of managers shall hold a meeting at least once in every three months.

(7.) Any two managers may convene a meeting of the body of managers.

(8.) The minutes of the proceedings of every body of managers shall be kept in a book provided for that purpose.

(9.) A minute of the proceedings of a body of managers, signed at the same or next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(10.) The minutes of a body of managers shall be open to inspection by the local education authority.

(11.) Until the contrary is proved, a body of managers shall be deemed to be duly constituted and shall have power to deal with the matters referred to in their minutes.

SECOND SCHEDULE.

SCHED. II.
—PROVISIONS AS TO TRANSFER OF PROPERTY AND OFFICERS, Sect. 25.
AND ADJUSTMENT.

(1.) The property, powers, rights, and liabilities (including any property, powers, rights, and liabilities vested, conferred, or arising under any local Act or any trust deed) of any school board or school attendance committee existing at the appointed day shall be transferred to the council exercising the powers of the school board.

Property, powers, and liabilities are defined in section 24 (3) above and the notes thereto.

(2.) Where, under the provisions of this Act, any council relinquishes its powers and duties in favour of a county council, any property or rights acquired and any liabilities incurred, for the purpose of the performance of the powers and duties relinquished, including any property or rights vested or arising, or any liabilities incurred, under any local Act or trust deed, shall be transferred to the county council.

The provisions as to relinquishment of powers are contained in section 20 above.

(3.) Any loans transferred to a council under this Act shall, for the purpose of the limitation on the powers of the council to borrow, be treated as money borrowed under this Act.

As to the powers of council as to borrowing *see* section 19, above.

(4.) Any liability of an urban district council incurred under the Technical Instruction Acts, 1889 and 1891, and charged on any fund or rate, shall, by virtue of this Act, become charged on the fund or rate out of which the expenses of the council under this Act are payable, instead of on the first-mentioned fund or rate.

52 & 53
Vict. c. 76.
54 & 55
Vict. c. 4.

See sections 3 and 18 (1) above.

(5.) Section two of this Act shall apply to any balance of the residue under section one of the Local Taxation (Customs and Excise) Act, 1890, remaining unexpended and unappropriated by any council at the appointed day.

53 & 54
Vict. c. 60.

See section 2, above.

SCHED. II.

(6.) Where the liabilities of a school board transferred to the local education authority under this Act comprise a liability on account of money advanced by that authority to the school board, the Local Government Board may make such orders as they think fit for providing for the repayment of any debts incurred by the authority for the purposes of those advances within a period fixed by the order, and, in case the money advanced to the school board has been money standing to the credit of any sinking fund or redemption fund or capital money applied under the Local Government Acts, 1888 and 1894, or either of them, for the repayment to the proper fund or account of the amount so advanced.

Any order of the Local Government Board made under this provision shall have effect as if enacted in this Act.

(7.) Where a district council ceases by reason of this Act to be a school authority within the meaning of the Elementary Education (Blind and Deaf Children) Act, 1893, or the Elementary Education (Defective and Epileptic Children) Act, 1899, any property or rights acquired and any liabilities incurred under those Acts shall be transferred to the county council, and notwithstanding anything in this Act, the county council may raise any expenses incurred by them to meet any liability of a school authority under those Acts (whether a district council or not), and transferred to the county council, off the whole of their area, or off any parish or parishes which in the opinion of the council are served by the school in respect of which the liability has been incurred.

(8.) Sections eighty-five to eighty-eight of the Local Government Act, 1894 (which contain transitory provisions), shall apply with respect to any transfer mentioned in this schedule, subject as follows :

- (a) References to "the appointed day" and to "the passing of this Act" shall be construed, as respects a case of relinquishment of powers and duties, as references to the date on which the relinquishment takes effect ; and
- (b) the powers and duties of a school board or school attendance committee which is abolished, or a council which ceases under the provisions of this Act to exercise powers and duties, shall be deemed to be powers and duties transferred under this Act ; and
- (c) subsections four and five of section 85 shall not apply.

Local Government Act, 1894, sections 85-88.

NOTES TO
SCHED. II.
(8).

Sect. 85.—(1.) Every rate and precept for contributions made before *the appointed day* may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if this Act had not passed. Current rates, &c.

(2.) The accounts of all receipts and expenditure before *the appointed day* shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act had not passed, but as soon as practicable after *the appointed day*; and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before *the appointed day*.

(3.) All proceedings, legal and other, commenced before *the appointed day*, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act.

Sect. 86.—(1.) Nothing in this Act shall prejudicially affect any securities granted before *the passing of this Act* on the credit of any rate existing or property transferred to a council or parish meeting by this Act; and all securities such securities, as well as all unsecured debts, liabilities, and obligations and incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a council or parish meeting shall be discharged, paid, and satisfied by that council or parish meeting, and where for that purpose it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for this Act, that rate may continue to be levied and that power to be exercised either by the authority who otherwise would have levied or exercised the same, or by the transferee as the case may require. Saving for of debts.

(2.) It shall be the duty of every authority whose powers, duties, and liabilities are transferred by this Act to liquidate so far as practicable before the appointed day, all current debts and liabilities incurred by such authority.

Sect. 87. All such bye-laws, orders, and regulations of any authority, whose powers and duties are transferred by this Act to any council, as are existing in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly. Saving for bye-laws.

Sect. 88.—(1.) If at the time when any powers, duties, liabilities, debts, or property are by this Act transferred to a council or parish meeting, any action or proceeding, or any cause of action or proceeding is pending or contracts, existing by or against any authority in relation thereto the same shall not be in anywise prejudicially affected by *the passing of this Act*, but may be continued, prosecuted, and enforced by or against the council or parish meeting as successors of the said authority in like manner as if this Act had not been passed. Saving for &c.

NOTES TO (2.) All contracts, debts, bonds, agreements, and other instruments
 SCHED. II. subsisting at the time of the transfer in this section mentioned, and affecting
 (8). any of such powers, duties, liabilities, debts, or property, shall be of as full
 — force and effect against or in favour of the council or parish meeting, and
 may be enforced as fully and effectually as if, instead of the authority, the
 council or parish meeting had been a party thereto.

(9.) The disqualification of any persons who are, at the time of the passing of this Act, members of any council, and who will become disqualified for office in consequence of this Act, shall not, if the council so resolve, take effect until a day fixed by the resolution, not being later than the next ordinary day of retirement of councillors in the case of a county council, the next ordinary day of election of councillors in the case of the council of a borough, and the fifteenth day of April in the year nineteen hundred and four in the case of an urban district council.

See section 17 (4) above.

(10.) No election of members of a school board shall be held after the passing of this Act, and the term of office of members of any school board holding office at the passing of this Act, or appointed to fill casual vacancies after that date, shall continue to the appointed day, and the Board of Education may make orders with respect to any matter which it appears to them necessary or expedient to deal with for the purpose of carrying this provision into effect, and any order so made shall operate as if enacted in this Act.

(11.) Where required for the purpose of bringing the accounts of a school to a close before the end of the financial year of the school, or for the purpose of meeting any change consequent on this Act, the Board of Education may calculate any parliamentary grant in respect of any month or other period less than a year, and may pay any parliamentary grant which has accrued before the appointed day at such times and in such manner as they think fit.

(12.) Any parliamentary grant payable to a public elementary school not provided by a school board in respect of a period before the appointed day shall be paid to the persons who were managers of the school immediately before that day, and shall be applied by them in payment of the outstanding liabilities on account of the school, and so far as not required for that purpose shall be paid to the persons who are managers

of the school for the purposes of this Act and shall be applied by them for the purposes for which provision is to be made under this Act by those managers, or for the benefit of any general fund applicable for those purposes : Provided that the Board of Education may, if they think fit, pay any share of the aid grant under the Voluntary Schools Act, 1897, allotted to an association of voluntary schools, to the governing body of that association, if such governing body satisfy the Board of Education that proper arrangements have been made for the application of any sum so paid.

SCHED. II.
(12).
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60 & 61
Vict. c. 5.

(13.) Any school which has been provided by a school board or is deemed to have been so provided shall be treated for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, as a school which has been provided by the local education authority, or which is deemed to have been so provided, as the case may be.

See section 6 (1) above.

(14.) The local education authority shall be entitled to use for the purposes of the school any school furniture and apparatus belonging to the trustees or managers of any public elementary school not provided by a school board, and in use for the purposes of the school before the appointed day.

See section 7 (2) above.

(15.) During the period between the passing of this Act and the appointed day, the managers of any public elementary school, whether provided by a school board or not, and any school attendance committee, shall furnish to the council, which will on the appointed day become the local education authority, such information as that council may reasonably require.

(16.) The officers of any authority whose property, rights, and liabilities are transferred under this Act to any council shall be transferred to and become the officers of that council, but that council may abolish the office of any such officer whose office they deem unnecessary.

(17.) Every officer so transferred shall hold his office by the same tenure and on the same terms and conditions as before the transfer, and while performing the same duties shall receive not less salary or remuneration than theretofore, but if any such

SCHED. II. officer is required to perform duties which are not analogous to
 (17). or which are an unreasonable addition to those which he is
 required to perform at the date of the transfer, he may relinquish
 his office, and any officer who so relinquishes his office, or
 whose office is abolished, shall be entitled to compensation
 under this Act.

By the provisions of subsections (16) and (17) the contracts of a school board with teachers are transferred to the new authority, which takes the place of the school board.

In the case of voluntary schools, both parties continue in existence, and there is, therefore, no necessity for such a provision.

The Act gives no compensation to teachers in either class of schools who are not re-engaged at the termination of their present contracts.

(18.) A council may, if they think fit, take into account continuous service under any school boards or school attendance committees in order to calculate the total period of service of any officer entitled to compensation under this Act.

59 & 60
 Vict. c. 50. (19.) If an officer of any authority to which the Poor Law Officers' Superannuation Act, 1896, applies is under this Act transferred to any council, and has made the annual contributions required to be made under that Act, the provisions of that Act shall apply, subject to such modifications as the Local Government Board may by order direct for the purpose of making that Act applicable to the case.

(20.) Any local education authority who have established any pension scheme, or scheme for the superannuation of their officers, may admit to the benefits of that scheme any officers transferred under this Act on such terms and conditions as they think fit.

51 & 52
 Vict. c. 41. (21.) Section one hundred and twenty of the Local Government Act, 1888, which relates to compensation to existing officers, shall apply as respects officers transferred under this Act, and also (with the necessary modifications) to any other officers who, by virtue of this Act or anything done in pursuance or in consequence of this Act, suffer direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, in like manner as it applies to officers transferred under this Act, subject as follows—

(a) any reference in that section to the county council shall include a reference to a borough or urban district council; and

- (b) references in that section to "the passing of this Act" shall be construed, as respects a case of relinquishment of powers and duties, as references to the date on which the relinquishment takes effect; and
- (c) any reference to powers transferred shall be construed as a reference to property transferred; and
- (d) any expenses shall be paid out of the fund or rate out of which the expenses of a council under this Act are paid, and, if any compensation is payable otherwise than by way of an annual sum, the payment of that compensation shall be a purpose for which a council may borrow for the purposes of this Act.

SCHED. II.

(21).

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The Local Government Act, 1888, 51 & 52 Vict., c. 41, sect. 120 :—

(1.) Every existing officer declared by this Act to be entitled to compensation, and every other existing officer, whether before mentioned in this Act or not, who by virtue of this Act or anything done in pursuance of or in consequence of this Act suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, shall be entitled to have compensation paid to him for such pecuniary loss by the county council, to whom the powers of the authority whose officer he was are transferred under this Act, regard being had to the conditions on which his appointment was made, to the nature of his office or employment, to the duration of his service, to any additional emoluments which he acquires by virtue of this Act, or of anything done in pursuance of or in consequence of this Act, and to the emoluments which he might have acquired if he had not refused to accept any office offered by any council or other body acting under this Act, and to all the other circumstances of the case, and the compensation shall not exceed the amount which, under the Acts and rules relating to Her Majesty's Civil Service, is paid to a person on abolition of office.

(2.) Every person who is entitled to compensation as above mentioned shall deliver to the county council a claim under his hand, setting forth the whole amount received and expended by him or his predecessors in office in every year during the period of five years next before the passing of this Act, on account of the emoluments for which he claims compensation, distinguishing the offices in respect of which the same have been received and accompanied by a statutory declaration under the Statutory Declaration Act, 1835, that the same is a true statement according to the best of his knowledge, information, and belief.

(3.) Such statement shall be submitted to the county council, who shall forthwith take the same into consideration and assess the just amount of compensation (if any), and shall forthwith inform the claimant of their decision.

(4.) If a claimant is aggrieved by the refusal of the county council to grant any compensation or by the amount of compensation assessed, or if not less than one-third of the members of such council subscribe a protest

NOTES TO against the amount of the compensation as being excessive, the claimant
 SCHED. II. or any subscriber to such protest (as the case may be) may within three
 (21). months after the decision of the council appeal to the Treasury, who shall
 The Local consider the case and determine whether any compensation, and if so,
 Govern- what amount ought to be granted to the claimant, and such determination
 ment Act, shall be final.

(5.) Any claimant under this section, if so required by any member of
 1888, 51 & the county council, shall attend at a meeting of the council, and answer
 52 Vict. upon oath, which any justice present may administer, all questions asked
 c. 41, by any member of the council touching the matters set forth in his claim,
 sect. 120. and shall further produce all books, papers, and documents in his possession
 or under his control relating to such claim.

(6.) The sum payable as compensation to any person in pursuance of this
 section shall commence to be payable at the date fixed by the council on
 granting the compensation, or in the case of appeal by the Treasury, and
 shall be a specialty debt due to him from the county council, and may be
 enforced accordingly in like manner as if the council had entered into a
 bond to pay the same.

(7.) If a person receiving compensation in pursuance of this section is
 appointed to any office under the same or other county council, or by
 virtue of this Act or anything done in pursuance of or in consequence of
 this Act receives any increase of emoluments of the office held by him, he
 shall not while receiving the emoluments of that office receive any greater
 amount of his compensation (if any) than with the emoluments of the said
 office is equal to the emoluments for which compensation was granted to
 him, and if the emoluments of the office he holds are equal to or greater
 than the emoluments for which compensation was granted, his compen-
 sation shall be suspended while he holds office.

(8.) All expenses incurred by a county council in pursuance of this
 section shall be paid out of the county fund as a payment for general
 county purposes.

56 & 57 (22.) Section sixty-eight of the Local Government Act, 1894
 Vict. c. 73. (which relates to the adjustment of property and liabilities),
 shall apply with respect to any adjustment required for the pur-
 poses of this Act.

Local Government Act, 1894—

Adjust-
 ment of
 property
 and
 liabilities.

Sect. 68.—(1.) Where any adjustment is required for the purpose of
 this Act, or of any order, or thing made or done under this Act, then, if
 the adjustment is not otherwise made, the authorities interested may make
 agreements for the purpose, and may thereby adjust any property, income,
 debts, liabilities, and expenses, so far as affected by this Act, or such
 scheme, order, or thing, of the parties to the agreement.

(2.) The agreement may provide for the transfer or retention of any
 property, debts, or liabilities, with or without any conditions, and for the
 joint use of any property, and for payment by either party to the agreement
 in respect of property, debts, and liabilities so transferred or retained, or
 of such joint user, and in respect of the salary or remuneration of any
 officer or person, and that either by way of an annual payment or, except

in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board : Provided that where any of the authorities interested is a board of guardians, any such agreement, so far as it relates to the joint use of any property, shall be subject to the approval of the Local Government Board.

NOTES TO
SCHED. II.
(22).

Local
Govern-
ment Act,
1894,
Sect. 68.

Adjustment of Property and Liabilities.—(1) and (2) The authorities interested may make an agreement for the adjustment of any property, etc., affected by this Act.

The agreement may contain a provision for payment by one party to the other, for advantage offered as mentioned in the text.

Any agreement for the joint use of any property, to which a board of guardians is a party, must receive consent of the Local Government Board.

(3.) In default of an agreement, and as far as any such agreement does not extend, such adjustment shall be referred to arbitration in accordance with the Arbitration Act, 1889, and the arbitrator shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.

Arbitration Act, 1889, 52 & 53 Vict. c. 49.—This Act provides for any matter in dispute being referred to arbitration, in accordance with the provisions therein contained. The parties make an agreement in writing to submit present or future differences to arbitration, sometimes mentioning an arbitrator therein; this is called the "submission," and is irrevocable, unless a condition of revocation is inserted. The reference to arbitration may be made by the parties themselves, without going to the Court at all, or by the Court, in certain cases during the hearing of a cause. The arbitrator has power to take evidence on oath.

(4.) Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses of exercising their duties under this Act, or out of such special fund as the authority, with the approval of the Local Government Board, direct, and if it is a capital sum the payment thereof shall be a purpose for which the authority may borrow under the Acts relating to such authority, on the security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction.

(5.) Any capital sum paid to any authority for the purpose of any adjustment under this Act shall be treated as capital, and applied, with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

THIRD SCHEDULE.

MODIFICATION OF ACTS, &c.

(1.) References to school boards and school districts shall be construed as references to local education authorities and the areas for which they act, except as respects transactions before the appointed day, and except that in paragraph (2) of section nineteen of the Elementary Education Act, 1876, and in sub-

SCHED.
III.
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39 & 40.
Vict. c. 79.
53 & 54
Vict. c. 22.

section (1) of section two of the Education Code (1890) Act, 1890, references to a school district shall, as respects the area of a local education authority being the council of a county, be construed as references to a parish.

Elementary Education Act, section 19, subsection (2), is as follows:—

“Where the population of the school district in which the school is situate, or the population within two miles measured according to the nearest road from the school is less than three hundred, and there is no other public elementary school recognised by the Education Department as available for the children of the district, or that population (as the case may be), a special parliamentary grant may be made annually to that school to the amount, if the said population exceeds two hundred, of ten pounds, and, if it does not exceed two hundred, of fifteen pounds.”

Education Code (1890) Act, 1890, section 2, subsection (1), is as follows:—

“Where the population of the school district in which a public elementary school is situate, or the population within two miles measured according to the nearest road from the school, is less than five hundred, and there is no other public elementary school recognised by the Education Department as available for the children of that district or that population (as the case may be), a special parliamentary grant made annually to that school to the amount of ten pounds.”

By Schedule III. (1) above, references to a school district in the sections quoted above shall as respects the area of a local education authority being the council of a county be construed as references to a parish.

(2.) References to the school fund or local rate shall be construed as references to the fund or rate out of which the expenses of the local education authority are payable.

The expenses of a local education authority are payable in the manner explained in section 18 (1) of the Act above.

(3.) In section thirty-eight of the Elementary Education Act, 1876, references to members of a school board shall be construed as references to members of the education committee, or of any sub-committee appointed by that committee for school attendance purposes.

The Elementary Education Act, 1876, section 38, is as follows:—

“No legal proceedings for non-attendance or irregular attendance at school shall be commenced in a court of summary jurisdiction, by any person appointed to carry out the compulsory bye-laws of a school board, except by the direction of not less than two members of a school board.”

By Schedule III. (3) above the reference herein to members of a school board is to be construed as a reference to members of the education committee or of any sub-committee appointed by that committee for school attendance purposes (*see* section 17 and Schedule I. A (6) above).

(4.) The power of making byelaws shall (where the local education authority is a county council) include a power of making different byelaws for different parts of the area of the authority.

SCHED.
III.
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(5.) The following provision shall have effect in lieu of section five of the Elementary Education Act, 1891 :

54 & 55
Vict. c. 56.

“The duty of a local education authority under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation shall include the duty to provide a sufficient amount of public school accommodation without payment of fees in every part of their area.”

(6.) The words “in the opinion of the Board of Education” shall be substituted for the words “in their opinion” in the first paragraph of section eighteen of the Elementary Education Act, 1870.

33 & 34
Vict. c. 75.

The Elementary Education Act, 1870, section 18, 1st paragraph, as amended, is as follows :—

The school board (*now* the local education authority) shall maintain and keep efficient every school provided by such board, and shall from time to time provide such additional school accommodation as is *in the opinion of the Board of Education* necessary in order to supply a sufficient amount of public school accommodation for their district.

(7.) Section ninety-nine of the Elementary Education Act, 1870, shall apply to the fulfilment of any conditions, the performance of any duties, and the exercise of any powers under this Act as it applies to the fulfilment of conditions required in pursuance of that Act to be fulfilled in order to obtain a parliamentary grant.

The Elementary Education Act, 1870, section 99, is as follows :—

“The managers of every elementary school shall have power to fulfil the conditions required in pursuance of this Act to be fulfilled in order to obtain a parliamentary grant, notwithstanding any provision contained in any instrument regulating the trusts or management of their school, and to apply such grant accordingly.”

(8.) A reference to the provisions of this Act as to borrowing shall be substituted in section fifteen of the Elementary Education Act, 1876, for the reference to section ten of the Elementary Education Act, 1873, and a reference to the Local Government Board shall be substituted for the second reference

36 & 37
Vict. c. 86.

SCHED.
III. (8).

in that section to the Education Department, and also for the reference to the Education Department in section five of the Elementary Education (Blind and Deaf Children) Act, 1893.

The Elementary Education Act, 1873, section 10, is repealed by Schedule IV., Part II. below.

The Elementary Education Act, 1876, section 15, so far as not repealed, and as amended by this Schedule III. (8) is as follows :—

“The consent of one of His Majesty’s Principal Secretaries of State and not of the Education Department shall be required for the establishing, building and maintaining of a certified industrial or certified day industrial school by a school board, and to the spreading of the payment of the expenses of such establishment and building over a number of years and to the borrowing of money for that purpose : and for the purpose of such borrowing section 19 of the Education Act, 1902, shall be held to apply to the loan in like manner as if one of His Majesty’s Principal Secretaries of State were substituted therein for the Local Government Board, and such establishment and building shall be deemed to be a work for which a school board is authorised to borrow within the meaning of the First Schedule to the Public Work Loans Act, 1875.”

The Elementary Education (Blind and Deaf Children) Act, 1893, section 5 (so far as unrepealed by Schedule IV., Part II. below) is as follows, as amended by Schedule III. (8) above :—

“(1.) For the performance of their duties under this Act a school authority may, without prejudice to any other powers, exercise the like powers as may be exercised by a school board for the provision of school accommodation for their district, and the consent of the Local Government Board to the exercise of the power of borrowing for the purposes of this Act may be given in any case in which the exercise of that power appears to the Board expedient.

“(2.) The expenses of a school authority under this Act shall be paid out of the fund applicable to their general expenses.”

(9.) A reference to the provisions of this Act relating to the enforcement of the performance of the local education authority’s duties by mandamus shall be substituted in section two of the Elementary Education Act, 1880, for the reference to section twenty-seven of the Elementary Education Act, 1876.

43 & 44
Vict. c. 23.
39 & 40
Vict. c. 79.

The Elementary Education Act, 1880, section 2, made it obligatory on the part of the local authority to make byelaws respecting the attendance of children at school. By virtue of Schedule III. (9) above, in case of default on the part of the local authority to fulfil this duty, the Board of Education, under section 16, above, may, after holding a public inquiry, make such order as they think necessary or proper for the purpose of compelling the authority to fulfil their duty, and any such order may be enforced by *mandamus*.

(10.) The substitutions for school boards, school districts, school fund, and local rate made by this schedule shall, unless the context otherwise requires, be made in any enactment referring to or applying the Elementary Education Acts, 1870 to 1900, or any of them, so far as the reference or application extends.

(11.) References in any enactment or in any provision of a scheme made under the Charitable Trusts Acts, 1853 to 1894, or the Endowed Schools Acts, 1869 to 1889, or the Elementary Education Acts, 1870 to 1900, to any provisions of the Technical Instruction Acts, 1889 and 1891, or either of those Acts shall, unless the context otherwise requires, be construed as references to the provisions of Part II. of this Act, and the provisions of this Act shall apply with respect to any school, college, or hostel established, and to any obligation incurred, under the Technical Instruction Acts, 1889 and 1891, as if the school, college, or hostel had been established or the obligation incurred under Part II. of this Act.

52 & 53
Vict. c. 76.
54 & 55
Vict. c. 4.

The provisions of Part II. of this Act are contained in sections 2 to 4 above inclusive, and deal with "higher education."

The Technical Instruction Acts, 1889 and 1891, are repealed by Schedule IV., Part I. below, but *see* section 2 (2), section 18 (1), and Schedule II. (4) above.

(12.) The Local Government Board may, after consultation with the Board of Education, by order make such adaptations in the provisions of any local Act (including any Act to confirm a Provisional Order and any scheme under the Municipal Corporations Act, 1882, as amended by any subsequent Act) as may seem to them to be necessary to make those provisions conform with the provisions of this Act, and may also in like manner, on the application of any council who have power as to education under this Act and have also powers as to education under any local Act, make such modifications in the local Act as will enable the powers under that Act to be exercised as if they were powers under this Act.

45 & 46
Vict. c. 50.

Any order made under this provision shall operate as if enacted in this Act.

FOURTH SCHEDULE.
ENACTMENTS REPEALED.
PART I.

Session and Chapter.	Short Title.	Extent of Repeal.
52 & 53 Vict. c. 76.	The Technical Instruction Act, 1889.	The whole Act.

Effect of Repeal.—This Act made the council of every county, county borough, non-county borough, and urban district an authority for technical education.

The Education Act, 1902, abolishes this authority, and substitutes for it the local education authority, which must take steps, after consultation with the Board of Education, to supply or aid the supply of education other than elementary, and to promote the general co-ordination of all forms of education (*see* sections 2 to 4 of the Act and notes thereon).

53 & 54 Vict. c. 60.	The Local Taxation (Customs and Excise) Act, 1890.	In section one, subsections two and three.
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Effect of Repeal.—The subsections hereby repealed enable the county council or county borough council, as the case might be, to devote certain customs and excise duties received by them to the purposes of technical instruction; these duties are commonly known as the “whiskey money.”

The Education Act, 1902 (section 2 and sched. II. (5)), provides for the application of these monies by the local education authority for the supply of education other than elementary, and for the promotion of the general co-ordination of all forms of education.

54 & 55 Vict. c. 4.	The Technical Instruction Act, 1891.	The whole Act.
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Effect of Repeal.—The Act, hereby repealed, enabled the authority to provide instruction outside their district, where necessary, and to provide scholarships for students ordinarily resident in their district at schools within or outside that district. It also provided that monies set aside by the county council for technical instruction, although not expended before the end of the financial year, should remain applicable for the purpose.

The Education Act, 1902 (section 23 (2), and Schedule II. (5)) contains somewhat similar provisions.

PART II.

SCHED.
IV.*Session and Chapter.*—33 & 34 Vict. c. 75.*Short Title.*—THE ELEMENTARY EDUCATION ACT, 1870.Enact-
ments
Repealed.

Extent of Repeal.	REASONS FOR REPEAL.	
Section 4.	School boards, school districts, and school funds are now abolished, as the local education authority is made the education authority for their area. The local education authorities under the Act will all be authorities having power to raise money directly or indirectly by means of a rate (<i>see</i> section 18 (1) of the Act above).	33 & 34 Vict. c. 75
Section 5 except so far as it de- fines public school accommo- dation.	The obligation to provide sufficient public school accommoda- tion under this section is no longer necessary, because the local education authority becomes the school board for the whole of their area, and have the obligation of the school board under section 16 of providing the necessary school accommodation. The definition of public school accommodation is required as the phrase is used in section 16 and Schedule III. (5).	
Section 6.	This is superseded, as the local education authority are the school board for the whole of their area, and there can never be any question of new school boards.	
Sections 8 to 13.	These sections provide for the formation of school boards in districts where there is insufficient school accommodation. They are superseded for the reasons given above as respects section 6.	
Sections 15 and 16.	Section 15 deals with the appointment of managers by a school board. The provisions of the Act substituted for this section hereby repealed are contained in section 6 and Schedule I.B. Section 16 is repealed because power is given by section 16 of the Act to enforce compliance with the Elementary Education Acts by Mandamus. The provisions of the Act of 1870 as to a school board in default are not applicable to a local education authority.	
Section 18 from "If at any time" to the end of the section	The reasons for repealing section 16 apply to the repeal of the part of section 18 repealed.	

SCHED. IV.	Extent of Repeal.	REASONS FOR REPEAL.
Enact- ments Repealed. 33 & 34 Vict. c. 75	In section 19 the words “whether in obe- dience to any requi- sition or not.”	The words “whether in obedience to any requisition or not.” are repealed in this section. The words have reference to section 10 and to the third paragraph of section 18, both of which are repealed.
	Sections 29 to 34.	These sections (which deal with the election and constitution of school boards) are repealed, as school boards will cease to exist.
	In section 35 the words “a clerk and a treasurer and other” and the words from “but no such appoint- ment” to “member of the board.”	The power of the school board to appoint a clerk and treasurer is not required, as the local education authority have the necessary power. The power to appoint officers, including teachers, is kept up, as the local education authority will require this power for the purposes of their education work.
	Sections 40 to 48.	These sections are repealed, inasmuch as the power to unite school districts is not now required when large areas are taken as the areas for education purposes. The local education authorities have power to appoint a joint education committee if necessary, under section 17 (5).
	Sections 49 to 51.	These sections deal with contributory districts, which consist of districts not within the school board area which contribute to the expenses of the school board. Now that the local education authority is the school board for the whole of their area and the whole of their area is therefore under a school board, these sections are without meaning.
	In section 52 the words	The words “under the provisions of this Act with respect to the appointment of a body of managers” are repealed consequent on the repeal of section 15 above, which contained

SCHED.
IV.

Enact-
ments
Repealed.
33 & 34
Vict. c. 75

Extent of Repeal.	REASONS FOR REPEAL.
“under the provisions of this Act with respect to the appointment of a body of managers.”	those provisions. The rest of the section, which enables two or more education authorities to combine in providing schools common to such districts is not repealed.
Sections 53 to 56.	These sections are superseded by the provisions of the Act dealing with the payment of expenses of education authorities. The repeal of section 55 is consequential on the repeal of the sections providing for united and contributory districts.
Sections 60 to 66.	Sections 60 to 62 deal with audit. The accounts of the local education authority, in the case of authorities other than borough councils, will be audited in the usual way as accounts of the authorities. The education accounts of a borough council will be subject to Government audit under section the Act. 18 (3) of
	Sections 63 to 66 contain the provisions which regulate the procedure as to a defaulting school board. The procedure is that the Board of Education appoint persons to do the duty of the defaulting school board. These sections are quite inapplicable in the case of local authorities, and are therefore repealed. Section 16 of the Act gives power to enforce the performance by a local education authority of their duties under the Elementary Education Acts by mandamus.
In section 69 the words “in the metropolis” and the words from “appointed under this Act” to “returns under this Act.”	The effect of the repeals in this section is to provide that the returns in every case are to be made by the local education authority.

SCHED. IV.	Extent of Repeal.	REASONS FOR REPEAL.
Enact- ments Repealed. 33 & 34 Vict. c. 75	In section 73 the words "of the school district," the words from "(if any) or if" to "inquiry relates," and the words "or if there is no school board as a debt due from the rating authority."	The words "of the school district" in subsection (2) are repealed, because the area of the local education authority is now the school district, and the inquiry will naturally be held within the school district and not in the neighbourhood of the school district.
	Sections 77 and 79.	The words at the end of subsection (3) from "if any" to "inquiry relates" are repealed, inasmuch as the local education authority are the school board for the whole of their area, and therefore there is always a school board. In subsection (4) the words "or if there is no school board," &c., are repealed for the same reasons.
	Sections 87, 88, and 90.	As a parish is no longer the education area the provisions of section 77 are unnecessary. Section 79 is now unnecessary, inasmuch as the education expenses will be payable out of the ordinary local rates, and not out of the special precept rate under this Act, <i>see</i> section 18 (1) of the Act above. The repeal of section 87 follows on the provisions of the Act which make education part of the duties of ordinary local authorities. If the section stood, it would enable any ratepayer to look at any document belonging to or under the control of the education authority, and this, of course, is absurd.
	Section 93. The first proviso of section 97.	Sections 88 and 90 are repealed, as there will no longer be any school board elections. This makes special provision for the school board in Oxford. Now that the borough council will be the school board, these provisions are unnecessary.
	The First Schedule.	The repeal of this Schedule is consequential on the repeal of section 4.
	The Second Schedule, except the Third Part	The first and second parts of the Second Schedule affect matters relating to members of school boards, and resolutions of school boards. As school boards will no longer exist, these provisions are unnecessary. The Third Part of the Second Schedule is not repealed, as it relates exclusively to London.

Extent of Repeal.	REASONS FOR REPEAL.	SCHED. IV.
The Third Schedule.	The Third Schedule, hereby repealed, deals with the proceedings of school boards and of managers appointed by them. Local education authorities are substituted for school boards, and managers appointed by the authorities are governed by the provisions of the Act, section 6 and Schedule I. B, above.	Enact-ments Repealed. 33 & 34 Vict. c. 75

Session and Chapter.—36 & 37 Vict. c. 86.

Short Title.—THE ELEMENTARY EDUCATION ACT, 1873.

Sections 5 to 12.	Sections 5 to 9 deal with amendments of the law relating to the election of school boards, which will now cease to exist. Section 10 is now provided for by section 19 of the Act. The provision which limits the discretion of the Board of Education as regards the provision of new schools is superseded by sections 9 and 10 of the Act. The repeal of section 11 is consequential on the abolition of united school districts. Section 12 is no longer necessary, as a parish will no longer be the education area.	36 & 37 Vict. c. 86
Sections 17 and 18.	These sections are unnecessary, as the education accounts of the local education authority will be part of their ordinary accounts, and will be subject to Government audit. As to the accounts of a borough council, <i>see</i> section 18 (3) of the Act.	
Sections 21 and 26.	The regulations referred to in section 21 relate to the proceedings of school boards, and this section is therefore repealed. The schedules are all repealed by the Act, except the fourth, which is already repealed by the Statute Law Revision Act of 1883. Section 26 can therefore also be repealed.	
The First Schedule. The Second Schedule. The Third Schedule.	The schedules relate to the election and proceedings of school boards, and can therefore be repealed.	

Session and Chapter.—37 & 38 Vict. c. 90.

Short Title.—THE ELEMENTARY EDUCATION (ORDERS) ACT, 1874.

The whole Act.	The orders confirmed by this Act all related to united districts, and united districts will cease to exist.	37 & 38 Vict. c. 70
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SCHED.
IV.

Extent of
Repeal.

REASONS FOR REPEAL.

Enact-
ments
Repealed.

Session and Chapter.—39 & 40 Vict. c. 79.

Short Title.—THE ELEMENTARY EDUCATION ACT, 1876.

39 & 40

Vict. c. 79

Section 7
from “and
(2) in
every” to
“appoint-
ing the
commit-
tee,” and
the words
“and
school
attendance
commit-
tee.”

The repeals in section 7 are consequential on the local education authority being the school board for the whole of their area.

In section
15 the
words
“not ex-
ceeding
fifty.”

The words “not exceeding fifty” are repealed because the only power to borrow will now be under the Act, which puts borrowing for education purposes on the same footing as borrowing for other local government purposes. A county council will only have power to spread the repayment of their loans over thirty years.

Section 21.

There will no longer be a school district not within the jurisdiction of a school board, *i.e.*, a local education authority, so the case no longer requires to be specially dealt with.

Section 23
to “or pay
any fees.”

The rest of section 23 not repealed makes it the duty of the local authority to enforce byelaws made by it under section 74 of the Elementary Education Act, 1870; this now applies to the local education authority.

Section 27.

This section provided for proceedings in case of the default of a school attendance committee. The local education authority will now be the school attendance committee, and if they fail to perform their duties they may be compelled to perform them by Mandamus under section 16.

In section
28 the
words
“but sub-
ject in the
case of a
school
attendance
committee

The words repealed in this section are no longer necessary, inasmuch as the local education authority are themselves the school attendance committee.

SCHED.
IV.Enact-
ments
Repealed.
39 & 40
Vict. c. 79

Extent of Repeal.	REASONS FOR REPEAL.
to the ap- proval hereinafter men- tioned ” and the words “ or the officers of the council or guardians by whom the com- mittee are ap- pointed.”	
Sections 30, 31, 32, 33 (except as applied by this Act), and 34.	Provision is made by the Act for the expenses of the local education authority in carrying out all the Elementary Education Acts. (<i>See</i> sections 18 and 19.) Section 30 becomes therefore unnecessary. Section 31 is unnecessary inasmuch as there will be no authority other than the local education authority with school attendance committee powers. The local education authority is itself the school attendance committee. There will therefore be no question of appointing a committee. Section 32 becomes therefore unnecessary. Sections 33 and 34 are rendered unnecessary by the local education authority being the school attendance committee. The words “ except as applied by this Act ” refer to section 18 (1) of the Act above, which provides that the expenses of a council of an urban district other than a borough shall be paid in the manner provided by section 33 of the Elementary Education Act, 1876, as respects the expenses mentioned in that section.
Section 36.	There will be no area which is not under a school board, <i>i.e.</i>, the local education authority. This section is therefore unnecessary.
In section 37 the words “ or local authority.” In section 38 the words “ or local authority ”	The local education authority are substituted for the school board, and will alone be the school attendance committee. The words repealed in these sections are therefore unnecessary.

SCHED. IV.	Extent of Repeal.	REASONS FOR REPEAL.
Enact- ments Repealed. 39 & 40 Vict. c. 79	and "or school attendance commit- tee."	
	Section 41.	There will no longer be any school boards. Any provision for the dissolution of school boards is therefore unnecessary.
	Section 42.	Now that the local education authority will have the powers of a school board, their ordinary powers to provide offices for themselves must be considered sufficient.
	Section 43.	Under section 95 of the Act of 1870, the local education authority as the school board have to furnish such report, returns, and information to the board of education as they require. This section is therefore unnecessary.
	Section 44.	As school boards will cease to exist, this section is unnecessary.
	Section 49.	This section ceases to be necessary now that parishes cease to be education areas.
	The Second Schedule.	The local education authority being the school attendance committee, this schedule is unnecessary.
	The Third Schedule.	This schedule relates to the filling of casual vacancies in school boards, which will cease to exist.

Session and Chapter.—43 & 44 Vict. c. 23.

Short Title.—THE ELEMENTARY EDUCATION ACT, 1880.

43 & 44 Vict. c. 23	Section 3.	Now that the local education authority are the school attendance committee, this section becomes unnecessary.
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Session and Chapter.—53 & 54 Vict. c. 22.

Short Title.—THE EDUCATION CODE (1890) ACT, 1890.

53 & 54 Vict. c. 22	Section 1.	Section 1, hereby repealed, provided that elementary education was not to be a condition of grant to evening schools. Section 22 (1) of the Act above enacts that the expression elementary school shall not include "evening school." Evening schools now come under the provisions of the Act as to education other than elementary (<i>see</i> sections 22 (3) and 2 to 4 of the Act above).
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Extent of Repeal.	REASONS FOR REPEAL.	SCHED. IV.
<i>Session and Chapter.</i> —54 & 55 Vict. c. 56.		Enact- ments Repealed.
<i>Short Title.</i> —THE ELEMENTARY EDUCATION ACT, 1891.		
Section 5.	The provisions of this section would be inapplicable to the scheme of the present Act, and provision on the subject is made by the fifth paragraph of the Third Schedule.	54 & 55 Vict. c. 56
Section 6.	This section is unnecessary now that the fee grants in respect of all voluntary schools will be paid to the local education authority.	
Section 7.	This section is also unnecessary now that the maintenance of all voluntary schools will be paid by the local education authority.	

Session and Chapter.—56 & 57 Vict. c. 42.

Short Title.—THE ELEMENTARY EDUCATION (BLIND AND DEAF CHILDREN) ACT, 1893.

Section 4 from “(b) for an area” to the end of the section	Paragraph (b) is unnecessary as the local education authority is the school board for the whole of their area. Provision is made for meeting the liabilities, &c., of a district council whose duties are transferred to the local education authority by the seventh paragraph of the Second Schedule.	56 & 57 Vict. c. 42
Section 5 (3).	This subsection was necessary where the authorities might be either the district council or the school board. Now that the authorities must be the local education authority, section 52 of the Act of 1870 makes sufficient provision for the purpose; it enables the local education authorities with the consent of the Board of Education to combine together for any purpose relating to elementary schools in such district.	
Section 5 (4).	This subsection is no longer necessary now that the local education authority are the authority under the Act. Borrowing is provided for by section 19 of the Act above.	
Section 6.	Failure of duty by local education authority is now provided for by <i>mandamus</i> under section 16 of the Act above.	

Session and Chapter.—59 & 60 Vict. c. 16

Short Title.—THE AGRICULTURAL RATES ACT, 1896.

In section 7 the words “a school board for a school district which is a parish or,” and subsection (3).	The words repealed referred to school boards which no longer exist as spending authorities. The Agricultural Rates Act remains in force as regards rates made by the county councils, councils of county boroughs, boroughs, and other urban districts referred to in this Act.	59 & 60 Vict. c. 16
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SCHED.
IV.

Enact-
ments
Repealed.

Extent of
Repeal.

REASONS FOR REPEAL.

Session and Chapter.—60 & 61 Vict. c. 5.

Short Title.—THE VOLUNTARY SCHOOLS ACT, 1897.

60 & 61
Vict. c. 5

Section 1. Section 1, which is hereby repealed, provides for the annual payment to voluntary schools of an aid grant. This aid grant is no longer payable, but a new aid grant is substituted, which is payable to the local education authority (*see* section 10 (1) of the Act above).

Session and Chapter.—60 & 61 Vict. c. 16.

Short Title.—THE ELEMENTARY EDUCATION ACT, 1897.

60 & 61
Vict. c. 16

The whole Act. This Act provided for an increased grant to certain school boards. This grant is no longer payable, but a new aid grant is substituted which is payable to the local education authority.

Session and Chapter.—62 & 63 Vict. c. 32.

Short Title.—THE ELEMENTARY EDUCATION (DEFECTIVE AND EPILEPTIC CHILDREN) ACT, 1899.

62 & 63
Vict. c. 32

In section 6 the proviso. The proviso to this section ceases to be applicable now that there will be no other authority under the Act except the local education authority.

Session and Chapter.—63 & 64 Vict. c. 53.

Short Title.—THE ELEMENTARY EDUCATION ACT, 1900.

63 & 64
Vict. c. 53

Section 3. This section also ceases to be necessary now that there will be no other authority for the Blind and Deaf Children Act, except the local education authority.

MEMORANDUM:

BOARD OF EDUCATION,
Whitehall, S.W.

20th December, 1902.

EDUCATION ACT, 1902, SECTION 11.

Foundation Managers.

1. The Education Act, 1902, materially alters the conditions under which voluntary public elementary schools are at present managed, and this preliminary memorandum has been prepared by the Board of Education in order to assist owners, trustees, and managers of such schools to decide whether they will apply for an order under section 11 of the Act, and in order to facilitate the work of making and considering such applications. It must be regarded as subject to such modification as further experience may show to be necessary.

2. Every such voluntary school will henceforth be managed by a body normally consisting of six persons, of whom four will be "foundation managers" representing the interests of those by whom the school was established or is at present managed. The manner of their appointment under the Act is the chief subject of this memorandum. The remaining two managers will be representative of local authorities. (As regards the possibility of a larger number of managers than six, see below, par. 17 (a).) The "foundation managers" will, although appointed in a different manner, act together with the two other managers for all the purposes of conducting a public elementary school and with them will compose the body which is spoken of in the Act as "the managers of the schools."

New con-
ditions of
manage-
ment.
Local
authori-
ties' mana-
gers.
"Founda-
tion mana-
gers."
mana-
gers."

Memorandum of Board of Education, Dec. 20, 1902.

"Foundation managers" must be appointed.

3. If the school has a "trust deed" (an expression explained below, par. 6), and the deed permits of the appointment of four foundation managers and gives sufficient and practicable directions as to the manner of their appointment, the intervention of the board will not usually be required, and the present managers will only have to see that four such managers are properly appointed to act with the two other managers. If, however, this is not the case, then the proper course for the present owners or trustees or managers is to apply to the Board of Education for an order under section 11 of the Act for the purposes of meeting the case. It is expected that such an order will be found necessary for a large majority of voluntary schools. Any failure to make or delay in making application where such is necessary, may result in serious embarrassment and inconvenience to the district served by the school.

If the owners or trustees or managers do not think fit to apply to the board for such an order within three months of the passing of the Act, the local education authority, or any person interested, may after that period make application.

Trustees and managers have no power to close schools.

4. It is to be remembered that (except in the case of such privately-owned schools as are the absolute property of the owner, and are subject to no trusts whatsoever) managers and trustees of elementary schools usually hold the school premises upon trust, either themselves to carry on a school therein or to permit it to be carried on. It is therefore not open to either body, or even to both bodies acting together, to close the school as or when they please. An attempt to close the school capriciously or for insufficient reasons may involve the consequences attendant on a breach of trust. If trustees or managers are unable or unwilling to carry on the school it is their duty at once to apply to the Board of Education (who for this purpose may exercise the powers formerly possessed by the Charity Commissioners) to be relieved of their trust or for direction in the matter.

The following paragraphs of this memorandum assume that it is intended to carry on the school in accordance with the trusts, except in so far as those trusts are modified by the Act.

Section II. 5. Section 11 provides that "if it is shown to the satisfaction

“ of the Board of Education that the provisions of the trust-deed as to the appointment of managers are in any respect inconsistent with the provisions of this Act, or insufficient or inapplicable for the purpose, or that there is no such trust-deed available, the Board of Education shall make an order under this section for the purpose of meeting the case.”

Memo-
randum of
Board of
Education,
Dec. 20,
1902.
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6. Under section 24 (5) the expression “ trust-deed ” includes “ any instrument regulating the trusts or management of a school.”

For the purposes of this Act therefore the term “ trust-deed ” includes not only deeds in the ordinary sense, but also any of the following instruments if they provide for the appointment of trustees or give directions for the management of a school or its endowment, viz. :—

- i. Orders of the Court of Chancery ;
- ii. Orders of a County Court under the Charitable Trusts Acts, 1853 and 1860 ;
- iii. Orders of the Charity Commissioners ;
- iv. Schemes made under the Endowed Schools Acts ;
- v. Schemes made by the Education Department under section 75 of the Elementary Education Act of 1870 ;
- vi. In the case of privately-owned schools, a lease or agreement in writing by which a school is let to managers for the purposes of a school may be usually regarded as a trust-deed, and any trust declared therein attaches to the whole of the tenants' interest, whatever it may be. The proper course of action in such cases is indicated below (paragraph 11).

7. Application for an order under section 11 may be made within three months of the passing of the Act by “ the existing owners, trustees, or managers of a school.” The trustees are those persons in whom the property in the school premises is now vested. These persons may also be entitled to act as managers, but in the case of most elementary schools the two bodies are distinct.

For the purposes of this Act it is indifferent whether the application is made by the trustees or by the managers, but in any case the application should be signed by a majority of the

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Form of
applica-
tion.

body which applies. It is also obviously desirable that before applying the managers and trustees should consult one another, and also the owner if there is one.

8. Application should be made on the special form provided for the purpose (Form E. A. 2), and it is important that full information under the several heads should be given. Any failure to supply the information required may lead to considerable delay in dealing with the case. Applications should be either sent directly to the Secretary, Board of Education, Whitehall, or transmitted through the secretary of any voluntary school association to which the school may belong. The latter course is perhaps the most convenient, in order that the applications may reach the board in batches corresponding to geographical or administrative divisions, and that time may be saved in dealing with them.

Recom-
menda-
tions.

9. In cases where an order is required (see below, par. 17) to adapt the provisions of the deed to the new conditions of management created by the Act, and where the trust-deed departs from the usual type or contains unusual provisions as to the management of the school, it is desirable that special recommendations should be made by the applicant as to the provisions to be embodied in the order. In other cases recommendations may conveniently be made (in the case of denominational schools) in or by reference to one of the forms adopted by the National Society, or Associations of Church of England, Roman Catholic, Wesleyan, or other schools. It is desirable that where schools have trust-deeds of a similar type uniformity in the provisions relating to the appointment of foundation managers should be secured, as far as is possible consistently with due regard to the trust-deed and local circumstances.

No deed,
but im-
plied
trusts.

10. Where there is no trust-deed and the school is not claimed as private property, but is held on implied trusts (*i.e.*, such as may be presumed from usage), it is undesirable that the persons now managing the schools should attempt to make a trust-deed; they should either apply to the board for an order under section 11 of the Act, or, in case of doubt or difficulty as to their rights and duties, for direction under the Charitable Trusts Acts.

11. Where school premises are held by lease or agreement from a private owner, it is not open to the owner, pending the term of the tenancy, to modify the trusts on which the premises are held. In such cases, if the conditions of letting do not allow of the appointment of the number of foundation managers required by the Act, it is the duty of the owner or the managers to apply to the board for an order under section 11 (see also below, paragraph 14).

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randum of
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Existing
lease.

12. In cases of doubt or difficulty where the trust deed is defective or insufficient in any particulars, the trustees should not attempt to supplement it by a new deed, but should apply for direction to the Board of Education (exercising the powers formerly belonging to the Charity Commissioners in respect of purely educational endowments).

Defective
deed.

13. The defects in a deed may be cured by an order under section 11; where this is not possible it is open to the trustees to apply to the Board of Education for a scheme, but no schemes will be made at present unless it is clearly shown that an order would be insufficient to secure the proper management of the school.

Schemes.

14. Where school premises are the property and in the possession of a private owner free from any trusts, express or implied, for educational purposes, several courses are open to him.

No trusts
—schools
which are
absolute
property
of owner.

- i. He may retain them in his own hands and as his absolute property, permitting them to be used by managers appointed by himself. In this case as there is no trust-deed, he will have to apply to the Board of Education for an order appointing foundation managers. This course is perhaps the least convenient.
- ii. He may execute a declaration of trust making himself, either alone or jointly with others, trustee of the school, either in perpetuity or for a fixed period.
- iii. He may convey the school to trustees in perpetuity.
- iv. He may let the school to managers by lease or agreement for a term of years, or from year to year, at a nominal or a substantial rent. This rent must now be paid by the managers out of funds other than those provided by the local education authority, and must not be charged in the school accounts.

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In the second, third, and fourth cases above-mentioned he may insert in the trust-deed, lease or agreement, such provisions as to management and mode of appointing managers as he thinks fit. If these provisions are consistent with and sufficient for the purposes of the Act, no order under section 11 will be required. It is obviously desirable that in any case he should act under competent legal advice, and the Board of Education cannot undertake to advise an owner as to the manner in which he should carry out his intention.

It may be noted that if the owner lets the school to a local education authority it becomes a "provided" school subject to the "Cowper-Temple clause," and all the other provisions of the Act applicable to such schools will attach to it. The relations between the owner and the local authority will be merely those of landlord and tenant.

Lost
deed.

15. An order under section 11 will be required in all cases where there is no trust-deed or where the trust-deed is not available. Where a trust-deed is known to have existed, every effort should be made to discover it. Where the trust-deed cannot be found, particulars should be given in the application form of any draft, abstract, or other documents from which the trusts of the school may be collected.

Where
deed never
existed.

16. Where no trust-deed is known to have existed, it is important that full particulars of the usage which has prevailed in the management of the school at different periods should be supplied. The direction contained in section 11 (4) that the board "shall have regard to . . . the principles on which the education given in the school has been conducted in the past," is specially applicable to such cases.

Order
required
to supple-
ment deed.

17. It is apprehended that where there is a trust-deed an order will usually be required in the following cases:—

(a) Where the trust-deed contemplates a number of managers either greater or less than four.

Number of
foundation
managers.

Four is the normal number of foundation managers contemplated by the Act and will usually be found the most convenient. Under the provisions, however, of section 6 (3) (b), the local education authority may increase the total number of managers, the foundation managers and local

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authority's managers being proportionately increased. In the circumstances to which section 6 (2) (b) of the Act applies (viz., where the local education authority are the council of a borough or urban district) the number of managers of the two classes respectively might be 6 and 3; but where the local education authority are the council of a county, the number of managers must be increased (if increase is thought desirable) to 8 and 4 respectively, or to some other multiple of 4 and 2. It will probably be found in most cases that 12 is an inconveniently large number of managers. Orders of the board under section 11 will be so drawn as to meet the case of future increase in the number of managers.

(b) Where the trust-deed gives (i) no directions as to the appointment of managers, or (ii) such directions as cannot be fulfilled.

(c) Where by reason of changes in local or other circumstances, the trust-deed has become inapplicable for the purposes of the management of the school, or a strict adherence to the letter of the deed would defeat its intention.

18. In order to avoid delay in bringing this part of the Act into operation, it is probable that most orders under this section will, in the first instance, be made in the form of "interim orders," which will not be confirmed until the local education authorities have had time to make preparation for the proper consideration of the notices and draft final orders, which, under the section, will be sent to them as well as to the owners, trustees, and managers.

In ordinary cases, notices and draft final orders will also be sent by the Board of Education to the parish council or parish meeting or other minor local authority of the area in which the school is situated, as representing "other persons interested."

19. It will greatly assist the board if bodies of trustees and managers will appoint some person to receive and distribute all notices and orders on their behalf.

Clerk.

BOARD OF EDUCATION.

REGULATIONS FOR EVENING
SCHOOLS.

(From 1st August, 1902, to 31st July, 1903.)

MEMORANDUM.

These regulations for evening schools supersede those contained in Directory 1901-1902, and in the Minute of the 3rd July, 1901.

Copies of any of the forms relating to evening schools will be supplied on application, personally, or by letter addressed to The Secretary, Board of Education, South Kensington, London, S.W.

Official communications should be written upon foolscap paper and sent in envelopes addressed to The Secretary, Board of Education, South Kensington, London, S.W. The postage need not be prepaid, and it is particularly requested that post cards and correspondence cards may not be used.

Telegraphic address : "Secondary Education, London."

REGULATIONS.

Parlia-
mentary
grant.

I. The sum granted by Parliament for evening schools will be administered by the Board of Education under the following regulations.

Conditions
of grant.

II. An evening school must be efficient and necessary for the circumstances of the locality; must not compete unduly with a neighbouring school; and from its character and financial position must be eligible to receive aid from public funds. It must be open at all times to the inspection of the officers of the board.

III. It shall not be required, as a condition of any student being admitted into or continuing in the school, that he shall attend or abstain from attending any Sunday school or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere. The times (if any) during which any religious observance is practised, or instruction in religious subjects is given at any meeting of the school, shall be at the beginning or end of such meeting, and shall be inserted in a time table to be approved by the Board of Education.

Regulations.
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Religious instruction.

IV. If any of the conditions on which the grant is awarded are not fulfilled, or if the instruction or management is inefficient, the board may withhold the grant, or, if they think fit, pay the grant with or without deductions, warning the managers that a grant will not again be paid under similar circumstances. Grants may be refused on students in any course whom the inspector reports as unqualified from want of sufficient preliminary training, or other cause, to take advantage of the instruction given in it.

Revision of grant.

V. Grants are intended to supplement and not to supersede local effort, and must be expended to the satisfaction of the board.

Local support.

The board consider that at least 25 per cent. of the expenditure of a school should be met by local contributions, such as fees, subscriptions, grants from the local authority, or endowments.

VI. Every school must be under the superintendence of a body of managers responsible to the board. It must not be conducted for private profit or farmed out to the teacher; and no student may be refused admission on other than reasonable grounds. The managers must appoint a person to act as correspondent with the board.

Management.

The courses of instruction and the school fees must be suitable to the circumstances of the locality, and be approved by the board.

The board will not in general recognise schools in which no fees are charged, but they will be prepared, in certain cases, to approve the remission of fees to individual students.

- Regulations, Application of income. A full account of the income and expenditure of all schools must be furnished annually to the board.
- Schools managed by a public company, in the articles of association of which provision is made that no dividend shall be paid exceeding 5 per cent. per annum, are not considered as conducted for private profit, provided they show that the capital is not nominal, but has absolutely been expended in buildings or maintenance.
- Teachers, pupil teachers, and holders of scholarships, exhibitions, and studentships, may be exempted from the payment of school fees.
- Local authorities as managers. VII. The council of any county or county borough or its technical instruction committee may notify its willingness to be responsible, within its area, to the board for instruction in schools aided by grants under these regulations.
- In such case managers of existing schools may continue to receive grants in respect of their present curriculum, but promoters of new schools, or managers wishing to change the character of their present curriculum, will in general be required, as a condition of grants, to act in unison with the council or its committee.
- Premises and equipment. VIII. The premises must be sanitary, convenient for teaching purposes, adapted to the circumstances of the school, and provided with satisfactory equipment and appliances.
- Qualifications of teachers. IX. The teaching staff must be sufficient. The teachers must, as a rule, be paid fixed salaries. They must possess such qualifications as may be required by the Board, and their employment at other times must not be such as will prevent the efficient discharge of their duties at the school. For qualifications *see* supplementary regulations.
- Instruction. X. Arrangements should be made, so far as practicable, to provide for a progressive course or courses of instruction for students attending in successive school years. Syllabuses of subjects in which the board hold examinations, and specimen syllabuses of instruction in certain other subjects, are given in the supplementary regulations. Managers of schools who wish to adopt any other syllabus must submit it to the board for their approval.
- Duration of school year. XI. The school year will, in general, be held to begin on the 1st August and to terminate on the following 31st July.
- A school will not, as a rule, be placed upon the list of recognised schools except upon an application made to the

Regula-
tions.
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board (on the prescribed form) before the 1st October in each year, but applications for the recognition of short courses in special subjects may be accepted at a later date, provided they are received not later than one month before the course begins.

Time
Table.

XII. The time table must be submitted to the inspector in duplicate at the beginning of the school year. The time table must show the several subjects† in which instruction is given, and the time allotted to each subject. At least one week's previous notice of any alteration in the time table affecting the days or hours of meeting or of a holiday or temporary closure of the school must be given to the inspector. The managers must also give a clear fortnight's notice to the inspector of the date at which the school will close for the school year.

A deduction from the grant not exceeding £1 may be made if the inspector finds the school closed at a time when the time table provides for instruction being given.

XIII. The instruction in the school must begin after 4 p.m., or on Saturdays after 1 p.m. Meetings.

In special circumstances instruction may be given at an earlier hour with the previous sanction of the board.

No course in any subject will be recognised which provides for less than 20 hours of instruction.

No meeting of the school is reckoned at which less than one hour's instruction has been given in subjects sanctioned by the board.

For the minimum length of lessons see § xx.

XIV. Managers must keep a record of the students who join the school. They are responsible for the accuracy of the registration of the attendance of all students who receive instruction. Record of students and attendance registers.

For detailed rules see supplementary regulations.

XV. No student may be registered (1) who is under 12 years of age, or (2) whose name is on the register for day attendance at any school under Government inspection. Persons excluded from registration.

† As a rule every school must give instruction in at least two subjects.

Regulations.
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Exception.—Students, whose only registration for day attendance is at a school of art or its branches, are exempted from the operation of this latter restriction. This exemption may, with the special sanction of the board, be extended to students whose only registration for day attendance is at an efficient art class.

No student's attendance in any course may be counted unless he has received at least 14 hours of instruction in that course.

Not more than 160 hours of instruction in a school may be counted for any student in one year.

Carrying forward of students' attendances and class meetings.

Where students of a school become eligible for registration too late to receive 14 hours instruction in any subject before the end of the school year, the board may allow the attendances of such students to be carried forward to the following school year, provided that no grant will be made in respect of a student who receives in all less than 14 hours instruction in that subject.

Where it is necessary on educational grounds to hold some of the meetings of a class before, as well as after, the 31st July in any year, the board may allow the meetings of such a class to be carried forward to the following school year, provided that no grant will be made in respect of any subject in which less than 20 hours of instruction in all has been given.

Visits of inspectors.

XVI. The Inspectors of the Board will from time to time visit the schools and report on the sufficiency, condition, and suitability of the premises and fittings: the sufficiency of the apparatus and equipment; the curriculum; the character and quality of the instruction; the sufficiency of the teaching staff for the number of students under instruction; the progress of the students, which they may test in such manner as may be necessary; the constitution and working of the managing body; and the manner in which the Board's regulations are carried out.

A meeting of the Managers, for which sufficient notice will be given, must, if required, be held when the school is inspected.

Where the school is under the management of an Authority acting under § vii. the Inspector may convene a meeting of the local Managers.

The Inspectors may require the production of the Accounts and of any other necessary papers to enable them to verify the income and expenditure in respect of the school.

XVII. Examinations are held by the Board under conditions which are stated in the Supplementary Regulations. Regulations.

XVIII. Payments are made on the attendance of students at instruction.† For rules governing the rate of the payments, *see* § xx. Examinations.
Payments.

The payments are made when the prescribed conditions have been complied with. The Managers must certify that these conditions have been fulfilled. Certificates required from the managers.

In case a school is compulsorily closed by order of a proper Authority a special grant may be made.

XIX. The rates payable under § xx. will be determined by the Board upon (a) the Inspector's Report; (b) the past record of the school, and, in certain cases, (c) the success of the students at the examinations. Assessment of efficiency of class.

XX. Subject to the foregoing conditions the grant will be calculated by adding together the number of hours of instruction in a subject received by registered students, and each complete 20 hours will be paid for at the rates following:— Subjects and grants.

(I.) LITERARY AND COMMERCIAL.

Reading, Writing, and Arithmetic—either taken separately or in any combination.

Knowledge of Common Things, or Nature Knowledge.

Elementary Drawing.

English.

Latin.

Life and Duties of a Citizen.

Commercial Correspondence and Office Routine.

Book-keeping.

Shorthand.

Needlework.

Vocal Music.

*Geography and History—either taken separately or together.

*Economics.

*Mercantile Law and Practice.

*French.

*German.

*Any other Modern Language.

† In certain cases payments are made on the results of examination.

Regula-
tions.

(I.)
Literary
and Com-
mercial.

The rate of grants payable will, as a rule, be from 2*s.* 6*d.* to 3*s.* 6*d.*

In schools in which advanced instruction is efficiently given, by teachers recognised as qualified by the Board, in the subjects marked with an asterisk, and in which the syllabus followed is one of the Specimen Advanced Syllabuses given in the Supplementary Regulations, or a corresponding syllabus specially approved for the purpose by the Board, grants up to 5*s.* may be awarded.

No lesson of less than one complete half-hour will be allowed to count as instruction in the above subjects.

(II.) ART.

The ordinary rate of grants will be from 2*s.* 6*d.* to 3*s.* 6*d.*

This rate may, however, be increased up to 15*s.* according to the efficiency of the instruction and equipment, the qualifications of the teachers, and the work submitted for the national competition (*see* supplementary regulations).

The hours of a student's instruction between 60 and 160 will be paid upon at the ordinary rate.

No lesson of less than one hour will be allowed to count as instruction in art.

(III.) MANUAL INSTRUCTION.

Wood-work.

Metal-work.

The rate of grants payable will, as a rule, be from 2*s.* 6*d.* to 3*s.* 6*d.*

When there is adequate equipment in the case of wood-work the rate may be increased up to 4*s.*, and in the case of metal-work up to 5*s.*

No lesson of less than one hour will be allowed to count as instruction in the above subjects.

(IV.) MATHEMATICS AND SCIENCE.

Any generalised or special branch of science will be accepted, if a suitable syllabus is submitted.

(For list of subjects in which the board hold examinations *see* supplementary regulations.)

Well appointed schools may submit schemes and time tables for grouping together cognate science and art subjects. This grouping will only be permitted where the students are actually in training for a trade or craft under some recognised educational authority, and when the subjects selected for grouping together are those necessary for the instruction in the principles underlying such trade or craft. The time to be given to instruction in each subject of the proposed group must be clearly indicated in the scheme submitted for approval. Where an advanced course is proposed, the instruction in it must, as a rule, be confined to a smaller number of subjects than that which is suitable for the elementary course.

Regulations.
—
Grouped subjects.

The ordinary rate of grants payable will be from 2*s.* 6*d.* to 3*s.* 6*d.*

This rate may be increased for elementary work up to 8*s.* 6*d.*, and for advanced work (including honours, Part I. of the syllabus on which examinations are held) up to 20*s.*, according to the efficiency of the instruction and equipment, the experimental illustration of the teaching, and the qualifications of the teacher.

For systematic practical instruction given under the same conditions, and in lessons of not less than one hour and a half in an approved laboratory, grants up to 13*s.* and 25*s.* respectively may be awarded.

Successes in the examinations in the advanced stage or in honours Part I. will be taken into consideration in assessing the rate.

The hours of a student's instruction between 120 and 160 will be paid upon at the minimum rate.

The works submitted for the national competition by the students in classes in Science subjects II., III., and IV., may be taken into account in assessing the rates of grant for attendances in such classes.

No lesson of less than 40 minutes will be allowed to count as instruction in the theory, or of less than 1½ hours in the practical work of the above subjects

Regula-
tions.

(V.) HOME OCCUPATIONS AND INDUSTRIES.

Domestic Economy.
Cookery.
Dressmaking and Cutting Out.
Laundry Work.
Dairy Work.
Gardening.
Cottage Industries.
Ambulance.
Home Nursing.

The rate of grants payable will, as a rule, be from 2*s.* 6*d.* to 3*s.* 6*d.*

When practical work is satisfactorily carried out in subjects which involve exceptional expenditure for materials and appliances, grants up to 5*s.* 6*d.* may be made.

No lesson of less than one hour will be allowed to count as instruction in the above subjects.

NOTE.—Subjects other than those given in the different divisions may be approved should the Board consider them to be of educational value and suited to the needs of the locality.

Scale of
Payments
on Results.

XXI. The following Payments are made on the Results of Examination of students who have received during the school year at least twenty registered lessons of an hour's duration in a theoretical subject or of an hour and a half's duration in a practical subject.

Science.

(a.) For Honours, Part II., of the Syllabus on which examinations are held, where the subject is divided into parts, and where the qualifying examination in Part I. has been passed, for a first or second class £6 and £3 respectively. For Honours where the subject is not divided into parts the payment for a success will be £6.

(b.) Payments on account of a student's success in any subject will be reduced by the amount previously paid for success in that subject.

(c.) No payment on results is made in Honours unless the student has already been registered for at least one School year in the subject in a Science School in connexion with the Board.

(a.) £3, £2, and £1 for an excellent, first class, or second class respectively in Drawing and Modelling from the Life and Architectural Design. Regulations.
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Art.

(b.) £6 and £3 for a first or second class respectively in Honours.

(c.) If the student, on account of whom payment under (a) and (b) is claimed, has been previously successful in the same subject, or in a corresponding subject, the payment on his account will be reduced by the payment which would be claimable on such previous success; but when such previous success has been obtained in a school or class under the same Managers, and has not been paid upon, the Board may allow the full claim. Payments for not more than three successes, whether in Honours or in Drawing from Life or Modelling from Life or Architectural Design, will be allowed for the same student in the same year.

XXII. Rewards to Students consist of certificates, prizes, medals, and scholarships and exhibitions. (*See Supplementary Regulations.*)

BOARD OF EDUCATION.

RULES TO BE OBSERVED IN PLANNING AND FITTING UP PUBLIC ELEMENTARY SCHOOLS.

PREFATORY NOTE.

The following rules are to be regarded as embodying the result of the experience of the Board of Education in school planning. They are intended to show School Managers and their Architects what the Board deem essential in the construction and design of school buildings, but in other respects they are not meant to restrict liberty of treatment.

Every part of a school building should be thoroughly adapted to the work of school teaching. Such a building therefore must be provided with an ample playground, must be of sufficiently solid construction, suitably lighted and

Rules of
Board of
Education.
—
Prefatory
Note.

warmed, and thoroughly ventilated without draughts. It must have a sufficient number of entrances and adequate cloak-room accommodation ; scrupulous care must be devoted to sanitary arrangements. The Rules which deal with these matters express in each case the principles to which the Board will expect all new buildings to conform.

The remaining Rules are intended to aid in the production of buildings which shall be compact, properly subdivided for class teaching, conveniently arranged for effective supervision by the principal teacher and for the movement of the children from the entrances to the class-rooms or from one class-room to another. They also indicate how to obtain the most economical school building.

No school should ordinarily be built to accommodate more than 1,000 to 1,200 children in three departments. No single department should accommodate more than 400 children. A large school in three departments might conveniently be divided in the following proportions : Boys 360, Girls 360, Infants 380. For departments of this size the most suitable plan is that of a Central Hall with the class-rooms grouped round it ; as a rule such a department would probably require seven class-rooms. Smaller departments may be planned conveniently with the class-rooms opening from a Corridor. For small schools a large room with one or more class-rooms will be sufficient. There should always be at least one class-room, except in special cases.

Where the site is sufficiently large, open and fairly level, the most economical plan is that of a school on a single floor. Such an arrangement is also preferable on educational grounds. In any case it is desirable that a school building should not be on more than two floors. A building on three floors is open to many objections, and should only be proposed in special circumstances, or on very costly sites.

Before instructing an architect, managers are recommended to have careful regard to the size and circumstances of the school, and to the number and qualifications of the staff to be employed. These considerations will determine approximately the method of grouping the scholars for instruction, and on this will depend the number and the accommodation of the rooms of which the school building should consist.

The annual cost of maintenance should be borne in mind as well as the initial capital expense.

Rules, &c.
Prefatory
note.

Article 85 (a) of the Code provides as follows :—

“All new school premises and enlargements must be approved by the Board before such new premises and enlargements are passed under this Article.”

REQUIREMENTS.

(Plans which do not fully comply with the following Requirements cannot be considered.)

I. *A Block Plan of the Site*, drawn in ink to a scale of 20 feet to an inch. This plan must indicate :—

- (a) The position of the school buildings.
- (b) Out-buildings.
- (c) Playground.
- (d) Drains (collateral and main), with their fall and depth below ground.
- (e) Entrances.
- (f) Boundary walls, or fences, and their nature.
- (g) Roads.
- (h) The points of the compass.
- (i) The levels of the ground at the principal points.

N.B.—For approval of site alone, the plan should show (g) (h) and (i).

II. *A Plan of each Floor of the School Rooms (and Teacher's or Caretaker's Residence, if any)* drawn in ink to a scale of 8 feet to an inch. The internal fittings of the rooms (*fireplaces, groups of desks, etc.*) must be accurately shown. The plan should also state whether the rooms are intended for boys, girls, or infants.

In cases of enlargement, a plan showing the buildings as they exist is needed.

III. *Sections* and at least four *Elevations*, also drawn in ink to a scale of 8 feet to an inch. The ceiling, the positions of window-heads in relation thereto, and the mode of ventilation must be shown.

Rules, &c.
Require-
ments.

- N.B.—(a) Pencil drawings cannot be received, but coloured tracings in ink on tracing cloth may be submitted while plans are in the preliminary stage of pencil, so that suggested alterations can be adopted without difficulty or expense.
- (b) Diagrams are of no value and cannot be accepted.
- (c) In the case of enlargements or alterations the whole site and the existing building should be as accurately shown in every respect as the proposed changes, and in such a manner that any change of numbers can be ascertained.
- (d) All plans should be dated, the scales drawn on and dimensions figured.

IV. *A Detailed Specification* separated under the several branches of the building trade.

V. *A Section of the Desk* proposed to be used, drawn to a scale of $1\frac{1}{2}$ inches to a foot.

R U L E S .

RULE 1.—Planning.

Every school must be planned so that the children can be seated in the best manner for being taught. The rooms must be grouped compactly and conveniently, so as to secure proper organisation and supervision. It is important to remember that the accommodation of every room depends not merely on its area, but also on the lighting, the shape of the room (especially in relation to the kind of desk proposed), and the position of the doors and fireplaces.

The doors and fireplaces should be arranged so as to allow the whole of one side of any room to be left free for the groups of desks.

RULE 2.—Central Halls.

A central hall should have a floor-space of about $3\frac{1}{2}$ but not exceeding 4 square feet for each scholar for whom the school is recognised. The hall must be fully lighted, warmed, and ventilated.

(a.) A single central hall may be provided for the joint use, at separate times, of two departments, provided that it is so placed as to be readily accessible from the class-rooms of each department.

(b.) Where outdoor space is not available, physical training should be given in the central hall (or corridor). This purpose should be taken into consideration at the time when the building is planned. Since fixed gymnastic apparatus is unsuitable for children under 14 years of age, a separate gymnasium is not required, and cannot be approved (Schedule III. of the Code, 1 and 4).

RULE 3.—Corridors.

Large schools not built with a central hall must be provided with a wide corridor giving access to the rooms.

A corridor should be fully and directly lighted and ventilated, and from 8 to 12 feet wide, according to the size of the school. Two or three of the rooms ought to be separated only by movable partitions, in order to secure flexible working.

RULE 4.—School-rooms.

A school-room should never be designed for more than 120 children, and a room of even smaller size is desirable. The proper width is from 18 to 22 feet, according to the kind and arrangement of the desks (Rule 15); but very small school-rooms need not be more than 16 feet wide.

No school-room lighted from one side only can be approved. The gable ends should be fully utilised for windows, and there should be no superfluous windows opposite the teacher.

A school-room which has no class-room attached should not contain more than 600 square feet of floor-space.

RULE 5.—Class-rooms.

The number of class-rooms should be sufficient for the size and circumstances of the school.

(a.) The class-rooms should never be passage-rooms from one part of the building to another, nor from the school-rooms to the playground or yard. Both school-rooms and class-rooms must have independent entrances. Every room should be easily cleared without disturbance to any other room.

Rules, &c.

(*b.*) A class-room should not be planned to accommodate more than from 50 to 60 children; but in special cases somewhat larger rooms may be approved. The minimum size is 18 feet by 15 feet, but if the desks are arranged parallel to the longer side of the room, the width should be not less than 16 feet. In the absence of supplementary light the measurement from the window-wall in a room 14 feet high should not exceed 24 feet 8 inches.

RULE 6.—Accommodation.

The accommodation of a school for older scholars is based upon the number of children who can be seated at the desks, arranged in accordance with Rule 15, provided that a minimum of 10 square feet of floor space per child is obtained.

A Central Hall will not be counted in the accommodation, nor will a class-room for Cookery, Laundry, Manual Instruction, Drawing or Science.

RULE 7.—Walls, Floors, and Roofs.

The walls of every room used for teaching, if ceiled at the level of the wall plate, must be at least 12 feet high from the level of the floor to the ceiling; if the area of the room exceed 360 square feet the height must be not less than 13 feet, and, if it exceed 600 square feet then the height must be at least 14 feet.

(*a.*) The walls of every room used for teaching, if ceiled to the rafters and collar beam, must be at least 11 feet high from the floor to the wall plate, and at least 14 feet to the ceiling across the collar beam.

(*b.*) Great care should be taken to render the roofs impervious to cold and heat.

(*c.*) Roofs open to the apex are very undesirable. They can only be permitted where the roofs are specially impervious to heat and cold, and where apex-ventilation is provided. Iron tie-rods are least unsightly when placed horizontally.

(*d.*) The whole of the external walls of the school and residence must be solid. If of brick, the thickness must be at

least one brick and a half ; and, if of stone, at least 20 inches ; Rules, &c.
 where hollow walls are proposed, one portion must have the full thickness required for a solid wall.

(e.) All walls, not excepting fence walls, should have a damp-proof-course just above the ground line.

(f.) The vegetable soil within the area of the building should be removed, the whole space covered by a layer of concrete not less than 6 inches thick, and air bricks inserted in *opposite* walls to ensure a through current of air under floors for ventilation to joists.

(g.) Timber should be protected from the mortar and cement by asphalt or tar.

RULE 8.—Entrances.

Entrances should be separate for each department and each sex. In large schools more than one entrance to each department is desirable. (*See also* Rule 9.) The principal entrances should never be through the cloak-room. Entrance doors should open outwards as well as inwards. A porch should be external to the school-room. An external door, having outside steps, requires a landing between the door and the threshold.

RULE 9.—Staircases.

There must be separate staircases for each sex and each department. Every staircase must be fire-proof, and external to the halls, corridors, or rooms. Triangular steps or "winders" must not be used. Each step must be about 13 inches broad and not more than $5\frac{1}{2}$ to 6 inches high. The flights must be short, and the landings unbroken by steps. The number of staircases must be sufficient not only for daily use, but also for rapid exit in case of fire or panic. For any upper floor accommodating more than 250 a second staircase is essential.

RULE 10.—Cloak-rooms and Lavatories.

Cloak-rooms should not be passages, and should be external to the school-rooms and class-rooms, with gangways at least 4 feet wide between the hanging-rails, and amply lighted from

Rules, &c. the end. They should not be placed against the gable wall (see Rule 4). The hanging-rail should be arranged so that the children can enter and leave the cloak-room without confusion or crowding. Hat pegs should be 12 inches apart, numbered, and of two tiers. The lineal hanging space necessary to provide a separate peg for each child is thus 6 inches.

Thorough ventilation is essential, so that smells are not carried into the school.

Lavatory basins are needed (see Rule 14 (*h*)). Girls' schools require a larger number than boys' or infants'.

A lock-up slop sink, water-tap, and cupboard are desirable for the caretaker.

RULE 11.—Lighting.

Every part and corner of a school should be fully lighted. The light should, as far as possible, and especially in class-rooms, be admitted from the left side of the scholars. (This rule will be found greatly to influence the planning, see Rules 4, 11 (*b*) and 12 (*a*)). All other windows in class-rooms should be regarded as supplementary or for ventilation. Where left light is impossible, right light is next best. Windows full in the eyes of teachers or scholars are under no circumstances approved. In rooms 14 feet high, any space beyond 24 feet from the window-wall is insufficiently lighted. (See Rule 5 (*c*)).

(*a*.) Windows should never be provided for the sake merely of external effect. All kinds of glazing which diminish the light and are troublesome to keep clean and in repair must be avoided. A large portion of each window should be made to open for ventilation and for cleaning.

(*b*.) The sills of the main lighting windows should be placed not more than 4 feet above the floor; the tops of some windows should reach nearly to the ceiling, with a portion made to swing. The ordinary rules respecting hospitals should here be remembered. Large spaces between the window heads and ceiling are productive of foul rooms.

(*c*.) Skylights are objectionable. They cannot be approved in school-rooms and class-rooms. They will only be allowed in central halls having ridge or apex ventilation.

(d.) The colouring of the walls and ceilings and of all fittings in the rooms should be carefully considered as affecting the light. The point and the size and position of the windows are especially important in their bearing on the eyesight of the children.

RULE 12.—Ventilation.

The chief point in all ventilation is to prevent stagnant air; particular expedients are only subsidiary to this main principle.

Apart from open windows and doors there must be provision for copious inflow of fresh air, and also for the outflow of foul air at the highest point of the room. The best way of providing the latter is to build to each room a separate air chimney carried up in the same stack with smoke flues. An outlet should be by a warm flue or exhaust, otherwise it will frequently act as a cold inlet. Inlets are best placed in corners of rooms furthest from doors and fireplaces, and should be arranged to discharge upwards into the room. Gratings in floors should never be provided. Inlets should provide a minimum of $2\frac{1}{2}$ square inches per child and outlets a minimum of 2 inches. All inlets and outlets should be in communication with the external air.

Besides being continuously ventilated by the means above described, rooms should as often as possible be flushed with fresh air admitted through open windows and doors. Sunshine is of particular importance in its effects on ventilation and also on the health of children.

(a.) Although lighting from the left hand is considered so important, ventilation demands also the provision of a small swing window as far from the lighting as possible, and near the ceiling.

RULE 13.—Warming.

The heat should be moderate and evenly distributed so as to maintain a temperature of from 56 degrees to 60 degrees. When a corridor or lobby is warmed, the rooms are more evenly dealt with and are less liable to cold draughts. Where schools are wholly warmed by hot water, the principle of direct

Rules, &c — radiation is recommended. In such cases open fireplaces in addition are useful for extra warming on occasions, and their flues for ventilation always.

(a.) A common stove, with a pipe through the wall or roof, can under no circumstances be allowed. Stoves are only approved when—

- (i.) provided with proper chimneys (as in the case of open fires) ;
- (ii.) of such a pattern that they cannot become red hot, or otherwise contaminate the air ;
- (iii.) supplied with fresh air, direct from the outside, by a flue of not less than 72 inches superficial ; and
- (iv.) not of such a size or shape as to interfere with the floor space necessary for teaching purposes.

(b.) A thermometer should always be kept hung up in each room.

(c.) Fireplaces and stoves should be protected by fireguards.

RULE 14.—Sanitary Arrangements.

Water-closets within the main school building are not desirable, and are only required for women teachers. All others should be at a short distance and completely disconnected from the school. Privies should be fully 20 feet distant.

(a.) The latrines and the approaches to them must be wholly separate for the two sexes. In the case of a mixed school this rule especially affects the planning. Passages or corridors should not be used by both sexes ; where such an arrangement is unavoidable, there must be complete supervision from the class-rooms by sheets of clear glass.

(b.) Each closet must be not less in the clear than 2 feet 3 inches wide, nor more than 3 feet, fully lighted and ventilated, and supplied with a door. The doors should be at least 3 inches short at the bottom and at least 6 inches short at the top. More than one seat is not allowed in any closet.

(c.) The children must not be obliged to pass in front of the teacher's residence in order to reach their latrines.

(d.) The following table shows approximately the number of Rules, &c. closets needed :—

			For Girls.		For Boys.		For Infants.
Under 30 children	-	2	-	1	-	2	
„ 50 „	-	3	-	2	-	3	
„ 70 „	-	4	-	2	-	3	
„ 100 „	-	5	-	3	-	4	
„ 150 „	-	6	-	3	-	5	
„ 200 „	-	8	-	4	-	6	
„ 300 „	-	12	-	5	-	8	

There should be urinals in the proportion of 8 feet per 100 boys.

(e.) Earth or ash closets of an approved type may be employed in rural districts, but drains for the disposal of slop and surface water are necessary. Cesspits and privies should only be used where unavoidable, and should be at a distance of at least 20 feet from the school. [Building form “A,” which may be obtained on application, gives suggestions as to their construction and arrangement.] The proximity of drinking wells should be carefully avoided.

(f.) Soil-drains must always be laid outside the building (on a hard even bottom of concrete) in straight lines with glazed stoneware pipes, carefully jointed in cement and made absolutely water-tight. A diameter of 4 inches is sufficient except for drains receiving the discharge of more than 10 closets, when the diameter should be 6 inches. The fall should never be less than 1 in 30 for 4-inch, and 1 in 40 for 6-inch drains. An inspection opening or chamber should be provided at each change of direction so as to facilitate cleansing the drain without opening the ground. Every soil-drain must be disconnected from the main sewer by a properly constructed trap placed on the line of drain between the latrines and the public sewer. This trap must be thoroughly ventilated by at least two untrapped openings; one being the 4-inch soil pipe carried up full size above the roof, and the other an inlet pipe connected with the side of the trap furthest from the public sewer. Automatic flushing tanks are desirable where trough closets are used.

(g.) Urinals must in all cases have a sufficient supply of water for flushing.

Rules, &c.

(*h.*) Waste pipes from sinks or lavatories should be first trapped inside and then made to discharge direct through an outer wall over a trapped gully.

RULE 15.—Desks.

Seats and desks should be provided for all the children, graduated according to their ages, and placed at right angles to the window-wall. (*See* also rules 4 and 11.) The seats should be fitted with backs.

An allowance of 18 inches per scholar at each desk and seat will suffice (except in the case of the dual desk), and the length of each group should therefore be some multiple of 18 inches, with gangways of 18 inches between the groups and at the walls. In the case of the dual desk the usual length is 3 feet 4 inches, and the gangways 1 foot 4 inches.

(*a.*) No desks should be more than 12 feet long. In an ordinary class-room five rows of long desks or six rows of dual desks are best; but in a school-room or room providing for more than 60 children, there should not be more than four rows of long desks or five rows of dual desks.

If a school-room is 18 feet wide, three rows of long desks or four of dual desks may be used; if the width is 22 feet, the rows may be four and five respectively.

Long desks should be so arranged that the teacher can pass between the rows. Where dual desks are used this is not necessary, as the gangways give sufficient access.

(*b.*) The desks should be very slightly inclined. An angle of 15° is sufficient. The objection to the flat desk is that it has a tendency to make the children stoop. A raised ledge in front of a desk interferes with the arm in writing. The edge of the desk when used for writing should be vertically over the edge of the seat.

(*c.*) Single desks are not necessary in an ordinary public elementary school and cannot be approved.

RULE 16.—Sites and Playgrounds.

Every school must have an open airy playground proportioned to the size and needs of the school, and the site should, if possible, have a building frontage in proportion to its area. A site open to the sun is especially valuable for the children,

and important in its effects on ventilation and health. The minimum size of site is, in the absence of exceptional circumstances, a quarter of an acre for every 250 children, irrespective of the space required for a teacher's or caretaker's house, or for a cookery or other centre. If the school is of more than one storey this area may be proportionately reduced ; but a minimum unbuilt-on or open space of 30 square feet per child should be preserved.

(a.) In the case of a mixed school of large size, playgrounds should be separate for boys and girls, and should, where practicable, have separate entrances from the road or street.

(b.) All playgrounds should be fairly square, properly levelled, drained, and enclosed. A portion should be covered, having one side against the boundary wall. A covered-way should never connect the offices with the main building ; buttresses, corners, and recesses should be avoided.

(c.) An infants' school should have its playground on the same level as the school, and a sunny aspect is of special importance.

RULE 17.—Infants' Schools.

Infants should not, except in very small schools, be taught in the same room with older children, as the methods of instruction suitable for infants necessarily disturb the discipline and instruction of the other scholars. Access to the infants' room should not be through the older children's school-room.

(a.) The partition between an infants' room and any other school-room should be impervious to sound, and there should be no habitual means of direct communication other than an ordinary door.

(b.) An infants' school and playground must always be on the ground floor.

(c.) No infants' class-room should accommodate, as a rule, more than 60 infants.

(d.) A space in which the children can march and exercise should be provided. A corridor intended for this purpose should not be less than 16 feet wide.

Rules, &c. (e.) The babies' room should always have an open fire, and should be maintained at a temperature of not less than 60 degrees.

(f.) In infants' schools an allowance of 16 inches per child at long desks will be sufficient. Dual desks should be 3 feet long.

(g.) The accommodation of an infants' school is based upon the number of children who can be seated at the desks, provided that a minimum of 9 square feet of floor space per child is obtained.

RULE 18.—Rooms for Cookery, Manual Instruction, &c.

As a rule, a single room for cookery, or laundry work, or manual instruction, or science, or drawing, will serve for more than one school if provided as a centre in a convenient position. Every such centre should have its own lavatory and cloak room.

Large schools, or schools of an exceptional type, may sometimes require special rooms for their exclusive use.

(a.) *Cookery.*

A cookery room should be capable of accommodating 12 to 18 at practice or 36 to 54 at demonstration at any one time. The larger size will require 750 superficial feet and 10,500 cubic feet. Provision for instruction in scullery work is necessary.

The sink should be placed in full view of the teacher and children, and should be fitted with a cold water supply and a waste pipe.

There should also be a gallery or raised platform with desks to accommodate 36 to 54 children, according to the size of the room.

The floor space for practical work should afford about 20 square feet for each scholar, and should not be encumbered with desks, cupboards, or stoves.

In cookery rooms the ventilation needs special arrangements. Where a gas stove is used, it may be necessary to have a pipe fixed to carry off noxious fumes. The temperature should not be allowed to rise above 70 degrees.

The apparatus for lessons in cookery should include such Rules, &c. stoves and other appliances as are usually found in the homes of the children.

(b.) *Laundry Work.*

A laundry should be of simple construction, and entirely apart from the ordinary school buildings.

The proper size for a laundry is about 750 square feet. It should have a gallery or raised platform with desks for 42 children.

Laundry tables should be large enough to allow at least three feet of space for each child when ironing.

The ventilation of rooms for laundry work needs special arrangements.

(c.) *Manual Instruction.*

In its plan, arrangements, construction, lighting, and ventilation, a manual instruction room should be modelled on a workshop rather than on a school. The construction should accordingly be simple. The roof may be either of lean-to or other ordinary form, according to circumstances. Its height at the windows in front of the benches need not be more than 10 feet. The light must be ample. The temperature should not be so high as in an ordinary class room. A flat ceiling is not, as a rule, necessary. Ample ventilation should be provided by inlets at a height of 5 feet from the floor, and by outlets at the highest point.

(d.) *Science Room.*

A room suitably fitted for elementary practical work in science may be provided for the use of one large or several contributory schools. Such a science room should not, as a rule, contain more than 600 square feet of floor space. It should be fitted with strong and plain tables, sinks, cupboards, and shelves, and where necessary, a fume closet. A proper supply of gas is necessary.

In addition to a science room, one of the ordinary class rooms may be fitted with a simple demonstration table and gas and water supply. But a special lecture room cannot be approved in an ordinary public elementary school.

Rules, &c.

(e.) *Drawing Class Rooms.*

A drawing class room can only be sanctioned where it is likely to be used for a reasonable time every week by the scholars from one large or several contributory schools. A suitable size for such a room is 600 square feet of floor space.

RULE 19.—Higher Elementary Schools.

For a higher elementary school accommodating from 300 to 350 scholars, 10 rooms will generally be required, since every class should have its own class room. No class room should accommodate more than 40 scholars.

(a.) (i.) The class rooms may be furnished with single or dual desks as may be desired. Single desks should be 2 feet long, arranged in pairs with intervals of 2 inches and gangways of 2 feet.

(ii.) If single desks are adopted, a class room should have an area of about 16 square feet per scholar. Class rooms fitted with dual desks need not be so large, but a minimum of about 13 square feet per scholar will be required.

(b.) Every higher elementary school should be provided with suitable laboratories.

(i.) The laboratory accommodation must be sufficient to provide at one time for the largest class in the school.

(ii.) There should generally be one laboratory for chemistry and one for physics.

(iii.) A laboratory should afford 30 square feet of floor space for each scholar, the minimum size will therefore be 600 square feet, but it is as a rule desirable that the laboratory should be somewhat larger. If, however, the laboratory accommodates more than 25 scholars a second teacher would be required.

(iv.) Laboratories must be fitted with suitable tables, which must be well lighted; they should be properly supplied with gas and water. For chemical laboratories, sinks, cupboards, and the necessary fume closets must be provided.

(v.) A small balance room may be provided if desired. Rules, &c.

- (c.) (i.) In addition to the class rooms and laboratories, a higher elementary school may include a lecture room, which should be fitted with (1) a demonstration table furnished with a gas and water supply and a sink, and (2) a fume closet. A lecture room should have an area of about 750 square feet.
- (ii.) If no separate lecture room is provided, each of the class rooms used by the third and fourth years should be fitted with a simple demonstration table.
- (iii.) A small preparation room, fitted with bench, sink, cupboard and shelves, and proper supply of gas should be provided in a convenient position.

(d.) A drawing class room for the more advanced drawing is desirable. It should provide 30 square feet of floor space for each scholar. The best size will be a room with an area of 750 square feet. If suitably lighted, the hall would answer for this purpose.

(e.) Other special rooms for cookery, laundry work and manual instruction should be provided in accordance with Rule 18.

(f.) A higher elementary school should be planned with a central hall ; but no class, other than drawing, can be recognised in such a hall. Good dimensions for such a hall would be 50 feet by 25 feet.

RULE 20.—Teacher's House, etc.

The residence for the master or mistress should contain a parlour, a kitchen, a scullery, and three bedrooms, and the smallest dimensions which the board can approve are :—

For the parlour - - -	14ft. by 12ft.	} of super- ficial area.	{	9ft. { in height to
„ „ kitchen - - -	12ft. by 12ft.			9ft. { wall-plate.
„ one of the bedrooms	14ft. by 12ft.			8ft. if ceiled at
„ two other bedrooms	12ft. by 8ft.			wall-plate ; or
				7ft. to wall-
				plate and 9ft.
				to ceiling.

Rules, &c

(a.) The residence must be so planned that no room is a passage room, and that the chimneys are not all on the external walls.

(b.) There must be no internal communication between the residence and the school.

(c.) Windows should be carried up as nearly to the ceiling as practicable.

(d.) There must be a separate and distinct yard with offices.

(e.) No dwelling house should be built as part of the school house.

RULE 21.—Loans.

The Board do not entertain applications for loans in respect of expenditure incurred without their previous sanction, which is based on plans, specifications, and actual tenders. Applications for loans should therefore include all the items in the first instance.

In order to secure due economy and the avoidance of confusion at completion a provisional prime-cost amount of not more than $2\frac{1}{2}$ per cent. may, if considered desirable, be included in building contracts in view of unavoidable contingencies, but the contract should contain a clause that no claim for extras can be even considered, unless the work has been ordered in writing by the architect, and the order bears the counter-signature of the Clerk of the School Board.

RULE 22.—Limits and Allowances.

No loan of money can be obtained from the Public Works Loan Commissioners unless the whole cost of the school, exclusive of site, legal expenses, extra rooms for instruction authorised by the Code, and residences (if any), is kept within the sum of £10 per child accommodated.

(a.) Additional allowances will be made on the following scale :—

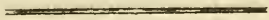
				Rules, &c.
For a central hall or corridor	- - -	15s. 0d.	per square foot.	
„ „ cookery or laundry room	-	£1 0s. 0d.	„ „ „	
„ „ manual instruction room	-	10s. to 15s.	„ „ „	
„ „ science room, laboratory				
or drawing class-room	- -	£1 0s. 0d.	„ „ „	
„ „ teacher's room	- - -	15s. 0d.	„ „ „	
„ „ teacher's house	- -	£500 to £750.		
„ „ caretaker's house	- -	not more than	£400.	

For glazed bricks and fire-proof floors (when necessary) allowance will be made according to the circumstances of the case.

Allowance for mechanical ventilation will only be made in districts where the air ought to be filtered before entering the building.

(b.) No additional allowance will be made in respect of any room which exceeds the maximum size specified in these rules, in so far as regards such excess.

(c.) Whether the necessary loan be borrowed in the open market or not, extravagant plans cannot be approved.



BOARD OF EDUCATION

MEMORANDUM

Issued to County Councils, 13th January, 1903.

Circular 470.

This MEMORANDUM is intended to set before County Councils such of their powers and duties and such of the powers and duties of the Board of Education, as it may be desirable for the Councils to bear in mind when framing Schemes for the establishment of an Education Committee.

The following notes are limited by this purpose ; they are not a summary of the Act, nor do they touch upon several matters in respect of which it may be possible at a later stage for the Board of Education to assist County Councils, if invited to do so, by advice, suggestion and co-operation.

The following Memorandum concerns the COUNCIL OF A COUNTY ONLY.

COUNTY COUNCILS.

I.—Powers and Duties.

(1) As to higher education.

To consider the needs of the area, and to take such steps as seem to them desirable, after consulting the Board of Education, to supply or aid the supply of education other than elementary.

To promote the co-ordination of all forms of education.

(As to matters included in education other than elementary.

(See Sec. 22 (2) (3), Sec. 23 (1) (2).)

(2) As to elementary education.

To take over and exercise the powers and duties of school boards and school attendance committees, and to control all secular instruction in public elementary schools. (Sec. 5.)

To appoint four managers for each school provided by them (Sec. 6 (1)), and also one manager or more for each school not provided by them. (Sec. 6 (2) (a) and (3) (b).)

To maintain and keep efficient all public elementary schools within their area under the conditions set forth in Section 7.

To provide such additional school accommodation as may be necessary, subject to the provisions of Sec. 8 (1), Sec. 16.

II.—Main sources of income.

A. For higher education.

(1) The residue under 53 and 54 Vict., c. 60, s. 1.

(2) The county rate, which for this purpose must not exceed 2d. in the pound unless by consent of the Local Government Board.

(3) Parliamentary Grant for instruction in Science and Art subject to conditions laid down by the Board of Education.

- (4) Where a borough or urban district which is a local education authority relinquishes to the County its powers under Part ii. of the Act, an additional rate for that borough or district not exceeding 1d. in the pound.

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B. For elementary education.

- (1) The Parliamentary grants payable in respect of public elementary schools.
- (2) The aid grant under Section 10.
- (3) Fees, where the local education authority allows fees to be charged : but in the case of a non-provided school, such proportion only of the fees as is agreed upon under Section 14.
- (4) The use of the school house in the case of non-provided schools during school hours subject to the provisions of Section 7 (1) (d) as to payment for wear and tear, and for the rent of the teacher's house (if any).
- (5) The County rate.

III.—Manner of Exercise of Powers.

- (a) Every County Council shall establish an Education Committee or Committees in accordance with a scheme to be made by the Council and approved by the Board of Education.
- (b) Every matter relating to the exercise of powers under the Act shall stand referred to the Education Committee except the power of raising a rate or borrowing money ; and the Council shall, unless the matter is urgent, consider the report of the Committee before acting.
- (c) The Council may delegate to the Committee, under any conditions it pleases, any of its powers under the Act except that of raising a rate or borrowing money.

So the Council—

- must* frame a scheme for the establishment of a Committee ;
- must* refer every educational matter to the Committee except the raising a rate or borrowing money ;
- may*, in case of urgency, act without awaiting the report of the Committee ;
- may* delegate, on any terms it pleases, its powers under the Act to the Committee ; but
- may not* delegate its power of raising a rate or borrowing money.

Under all circumstances the Council is responsible, whether for its own action, or for that of the Committee.

IV.—The Scheme of Establishment.

Necessary Provisions.

- (1) There must be a majority on the Committee of members of the Council, unless the Council of the County otherwise determine.
- (2) The Council must appoint :
 - (a) persons of experience in education.
 - (b) persons acquainted with the needs of the various kinds of schools within the area.

These may be obtained : —

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(a) By selection by the Council from among its own members, or from outside, or ;

(b) By nomination or recommendation of other bodies where it appears desirable.

(3) There must be at least one woman on the Committee.

Optional Provisions.

(a) Among the bodies who may be invited to nominate or recommend are included associations of voluntary schools. Section 17 (3) (b).

(b) Among the persons whom it may be desirable to appoint as members of the first Committee are the members of School Boards existing at the time of the passing of the Act.

(c) A separate Education Committee may be established for all or any purposes for any area within a county ; or separate Education Committees may be established, for the whole or any part of a County, to deal with special departments of work. The latter mode of distribution is guarded by the provisions of Section 17 (6).

(d) A joint committee may be formed for all or any purposes by a combination of counties, boroughs, or urban districts.

In the case of such a joint committee it is necessary that a majority of the members should be *appointed* by the Councils of the counties, boroughs or districts concerned ; it does not appear necessary that a majority should be *members* of those Councils.

(The formation of such Committees may be convenient in the case of boroughs or urban districts which may not desire to relinquish permanently their powers under the Act, but may, nevertheless, desire to work in close co-operation with the county in which they are situated.)

V.—Nomination or recommendation of other bodies.

It is probable that the representation of certain educational interests within the area of a council may be effected most satisfactorily by the nomination of a member of the Committee by some Society within the area or representative of some educational interest within the area.

This course may save the Council some trouble in selection, and may also be most satisfactory to the Society which is to be represented. In other cases it might be more convenient that a Society should be invited to recommend a representative, or to recommend certain persons from among whom the Council might choose a representative.

In the case of nomination it must be assumed that the Council places itself in the hands of the body whom it invites to nominate.

In the case of recommendation, suggestions might be made on both sides with a view to the choice of some one acceptable to the Council and representative of the interest concerned.

In each case the appointment is made by the Council, but either method would ensure that the person appointed was considered to be really representative by the interest concerned.

VI.—Duties of the Board of Education in respect of schemes.

(1) To give publicity to the provisions of the proposed scheme. Section 17 (6).

(2) To hold an enquiry if necessary. Section 23 (10).

(3) To be satisfied that where the scheme provides for more than one Committee due regard is paid to the importance of co-ordinating all forms of education. (*See* Section 17 (6).)

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It would not be desirable to perpetuate the severance of Elementary from Higher Education by the creation of separate Committees for each. But it may often be convenient to establish Sub-Committees which might, under the supervision of the Education Committee, administer the various forms of education.

(4) In the event of a scheme not having been made, or not having been approved within 12 months after the passing of the Act, to make a Provisional Order for the purposes of a scheme.

(A ground on which the Board might be asked to withhold its approval of a scheme would be the non-representation or inadequate representation of some of the educational interests within the area. An educational body or association might complain—

- (a) That the interests with which it was concerned were wholly unrepresented ;
- (b) That the person chosen to represent it was not really representative ;
- (c) That no security was afforded by the scheme for the continuance of its representation.

Points such as these should be carefully considered in framing a scheme).

VII.—Further powers of County Council.

Delegation to the Council of any borough, district or parish, on conditions to be agreed upon, of the powers of *management* which it possesses in respect of any school or college within the area of such borough, district or parish.

Acquisition—by arrangement and with the approval of the Board of Education—of the powers of a borough or urban district which is a local education authority under the Act, and which may relinquish to the County its powers under Part ii. or Part iii., or both.

VIII.—Disqualifications.

The circumstances which would disqualify a person for membership of the Council disqualify for membership of the Committee appointed by the Council, except that no person is disqualified by his holding office in a school or college aided, provided or maintained by the Council.

A person is disqualified for voting in the County Council on any question relating only to Part iii. if he is elected for a division which consists wholly of a borough or urban district or of a part of such borough or district which is a local education authority for Part iii. of the Act. (*See* Section 23 (3).)

IX.—Draft Scheme.

Among the more important matters for which a draft scheme should provide are the following :—

1. The number of the proposed Committee.

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2. How many are required to be members of the Council.
3. The educational interests which it is proposed should be represented.
4. How it is proposed to secure their representation—by selection, recommendation or nomination.
5. What security is provided for the permanence of such representation.
6. What provision is made for the appointment of women.
7. If more Committees than one—are they constituted for separate areas or for separate administrative duties—their proposed numbers and composition—the number, duties and composition of sub-committees.
8. The term of office of members of the Committee, and the arrangements for retirement and filling of vacancies, occurring casually or at stated times.

BOARD OF EDUCATION.

MEMORANDUM

Issued to Councils of County Boroughs, 17th January, 1903.

Circular 470 A.

EDUCATION ACT, 1902.

THIS MEMORANDUM is intended to set before County Borough Councils such of their powers and duties, and such of the powers and duties of the Board of Education, as it may be desirable for the Councils to bear in mind when framing Schemes for the establishment of an Education Committee.

The following notes are limited by this purpose; they are not a summary of the Act, nor do they touch upon several matters in respect of which it may be possible at a later stage for the Board of Education to assist Councils, if invited to do so, by advice, suggestion and co-operation.

The following Memorandum concerns the COUNCIL OF A COUNTY BOROUGH only.

I.—Powers and Duties.

(1) As to higher education.

To consider the needs of the area, and to take such steps as seem to them desirable, after consulting the Board of Education, to supply or aid the supply of education other than elementary.

To promote the co-ordination of all forms of education.

(As to matters included in education other than elementary, see Sec. 22 (2) (3), Sec. 23 (1) (2).)

(2) As to elementary education.

To take over and exercise the powers and duties of school boards and school attendance committees, and to control all secular instruction in public elementary schools. (Sec. 5.)

To appoint, in such numbers as they may determine, managers for each school provided by them (Sec. 6 (1)), and also two managers or more for each school not provided by them. (Sec. 6 (2) (b) and (3) (b)).

To maintain and keep efficient all public elementary schools within their area under the conditions set forth in Section 7.

To provide such additional school accommodation as may be necessary, subject to the provisions of Sec. 8 (1), Sec. 16.

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II.—Main sources of income.

A. For higher education.

- (1) The residue under 53 and 54 Vict., c. 60, s. 1.
- (2) The borough rate, or such other fund or rate as has hitherto met the expenses incurred for educational purposes. Section 18 (1) and (4).
- (3) Parliamentary grant for instruction in science and art subject to conditions laid down by the Board of Education.

B. For elementary education.

- (1) The Parliamentary grants payable in respect of public elementary schools.
- (2) The aid grant under Section 10.
- (3) Fees, where the local education authority allows fees to be charged : but in the case of a non-provided school, such proportion only of the fees as is agreed upon under Section 14.
- (4) The use of the school house in the case of non-provided schools during school hours subject to the provisions of Section 7 (1) (d) as to payment for wear and tear, and for the rent of the teacher's house (if any).
- (5) The borough rate, as in A. (2.)

III.—Manner of Exercise of Powers.

- (a) Every County Borough Council shall establish an Education Committee or Committees in accordance with a scheme to be made by the Council and approved by the Board of Education.
- (b) Every matter relating to the exercise of powers under the Act shall stand referred to the Education Committee except the power of raising a rate or borrowing money ; and the Council shall, unless the matter is urgent, consider the report of the Committee before acting.
- (c) The Council may delegate to the Committee, under any conditions it pleases, any of its powers under the Act except that of raising a rate or borrowing money.

So the Council—

- must* frame a scheme for the establishment of a Committee ;
- must* refer every educational matter to the Committee except the raising a rate or borrowing money ;
- may*, in case of urgency, act without awaiting the report of the Committee ;
- may* delegate, on any terms it pleases, its powers under the Act to the Committee ; but
- must not* delegate its power of raising a rate or borrowing money.

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Under all circumstances the Council is responsible, whether for its own action, or for that of the Committee.

IV.—The Scheme of Establishment.

Necessary provisions.

- (1) There must be a majority on the Committee of members of the Council.
- (2) The Council must appoint :
 - (a) persons of experience in education.
 - (b) persons acquainted with the needs of the various kinds of schools within the area.
 These may be obtained :—
 - (a) By selection by the Council from among its own members, or from outside, or ;
 - (b) By nomination or recommendation of other bodies where it appears desirable.
- (3.) There must be at least one woman on the Committee.

Optional provisions.

- (a) Among the bodies who may be invited to nominate or recommend are included associations of voluntary schools. Section 17 (3) (b).
- (b) Among the persons whom it may be desirable to appoint as members of the first Committee are the members of school boards existing at the time of the passing of the Act. Section 17 (3) (d).
- (c) Separate Education Committees may be established to deal with special departments of work, subject to the provisions of section 17 (6).
- (d) A joint committee may be formed for all or any purposes by a combination of counties, boroughs, or urban districts.

In the case of such a joint committee it is necessary that a majority of the members should be *appointed* by the Councils of the counties, boroughs or districts concerned ; it does not appear necessary that a majority should be *members* of those Councils.

(The formation of such Committees may be convenient in the case of county boroughs which may desire to work in close co-operation with the county in which they are situated.)

V—Nomination or recommendation of other bodies.

It is probable that the representation of certain educational interests which a council would desire to see represented on its committee may be effected most satisfactorily by the nomination of a member of the committee by some society within the area or representative of the interest in question.

This course may save the Council some trouble in selection, and may also be most satisfactory to the Society which is to be represented. In other cases it might be more convenient that a Society should be invited to recommend a representative, or to recommend certain persons from among whom the Council might choose a representative.

In the case of nomination it must be assumed that the Council places itself in the hands of the body whom it invites to nominate.

In the case of recommendation, suggestions might be made on both sides with a view to the choice of some one acceptable to the Council and representative of the interest concerned.

In each case the appointment is made by the Council, but either method would ensure that the person appointed was considered to be really representative by the interest concerned.

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VI.—Duties of the Board of Education in respect of schemes.

- (1) To give publicity to the provisions of the proposed scheme. Section 17 (6).
- (2) To hold an inquiry if necessary. Section 23 (10).
- (3) To be satisfied that where the scheme provides for more than one Committee due regard is paid to the importance of co-ordinating all forms of education. (See Section 17 (6).)

It would not be desirable to perpetuate the severance of Elementary from Higher Education by the creation of separate Committees for each. But it may often be convenient to establish Sub-Committees which might, under the supervision of the Education Committee, administer the various forms of education.

- (4) In the event of a scheme not having been made, or not having been approved within 12 months after the passing of the Act, to make a Provisional Order for the purposes of a scheme.

(A ground on which the Board might be asked to withhold its approval of a scheme would be the non-representation or inadequate representation of some of the educational interests within the borough. An educational body or association might complain—

- (a) That the interests with which it was concerned were wholly unrepresented;
- (b) That the person chosen to represent it was not really representative;
- (c) That no security was afforded by the scheme for the continuance of its representation.

Points such as these should be carefully considered in framing a scheme.)

VII.—Disqualifications.

The circumstances which would disqualify a person for membership of the council disqualify for membership of the committee appointed by the council except that no person is disqualified by his holding office in a school or college aided, provided or maintained by the council.

VIII.—Draft Scheme.

(Among the more important matters for which a draft scheme should provide are the following :—

1. The number of the proposed Committee.
2. How many are required to be members of the Council.

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3. The educational interests which it is proposed should be represented.
4. How it is proposed to secure their representation—by selection, recommendation or nomination.
5. What security is provided for the permanence of such representation.
6. What provision is made for the appointment of women.
7. If more Committees than one—their proposed numbers, duties and composition—the number, duties and composition of sub-committees.
8. The term of office of members of the Committee, and the arrangements for retirement and the filling of vacancies occurring casually or at stated times.

BOARD OF EDUCATION.

MEMORANDUM

Issued to Councils of certain Non-county Boroughs and Urban Districts, 17th January, 1903.

Circular 470 B.

EDUCATION ACT, 1902.

This MEMORANDUM is intended to set before Councils of Boroughs or Urban Districts which are local education authorities under the Act such of their powers and duties, and such of the powers and duties of the Board of Education, as it may be desirable for the Councils to bear in mind when framing Schemes for the establishment of an Education Committee.

The following notes are limited by this purpose; they are not a summary of the Act, nor do they touch upon several matters in respect of which it may be possible at a later stage for the Board of Education to assist Councils if invited to do so, by advice, suggestion and co-operation.

The following Memorandum concerns the COUNCILS OF BOROUGHES OR URBAN DISTRICTS which are local education authorities under Part III. of the Act.

I.—Powers and Duties.

(1) As to higher education.

To spend such sums as they think fit for the purpose of supplying or aiding the supply of education other than elementary.

(As to matters included in education other than elementary.
(See Sec. 22 (2) (3), Sec. 23 (1) (2).)

(2) As to elementary education.

To take over and exercise the powers and duties of school boards and school attendance committees, and to control all secular instruction in public elementary schools. (Sec. 5.)

To appoint managers for each school provided by them in such number as they may determine (Sec. 6 (1)), and also two managers or more for each school not provided by them. (Sec. 6 (2) (b) and (3) (b).)

To maintain and keep efficient all public elementary schools within their area under the conditions set forth in Section 7.

To provide such additional school accommodation as may be necessary, subject to the provisions of Section 8 (1), Section 16.

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randum of
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II.—Main Sources of Income.**A. For higher education.**

- (1) (a) In the case of a borough the borough rate or such other fund or rate as has hitherto met the expenses incurred for educational purposes. Section 18 (1) and (4).
- (b) In the case of an urban district, a rate to be made, assessed and levied in manner provided by Section 33 of the Elementary Education Act, 1876, as respects the expenses mentioned in that section.

The rate for this purpose must not exceed 1d. in the pound.

(The County Council also has powers to raise a rate in the borough or urban district for this purpose. Section 2 (1).)

- (2) Parliamentary grant for instruction in Science and Art subject to conditions laid down by the Board of Education.

B. For elementary education.

- (1) The Parliamentary grants payable in respect of public elementary schools.
- (2) The aid grant under Section 10.
- (3) Fees, where the local education authority allows fees to be charged : but in the case of a non-provided school, such proportion only of the fees as is agreed upon under Section 14.
- (4) The use of the school house in the case of non-provided schools during school hours subject to the provisions of Section 7 (1) (d) as to payment for wear and tear, and for the rent of the teacher's house (if any).
- (5) The rate, as in A (1), but without the limitation there stated.

III.—Manner of Exercise of Powers.

- (a) Every borough or urban district council having powers under Part III. of the Act shall establish an education committee or committees in accordance with a scheme to be made by the council and approved by the Board of Education.
- (b) Every matter relating to the exercise of powers under the Act shall stand referred to the education committee, except the power of raising a rate or borrowing money ; and the council shall, unless the matter is urgent, consider the report of the committee before acting.

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randum of
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17th Jan.,
1903.

- (c) The council may delegate to the committee, under any conditions it pleases, any of its powers under the Act except that of raising a rate or borrowing money.
- So the council—
- must* frame a scheme for the establishment of a committee ;
 - must* refer every educational matter to the committee except the raising a rate or borrowing money ;
 - may*, in case of urgency, act without awaiting the report of the committee ;
 - may* delegate, on any terms it pleases, its powers under the Act to the committee ; but
 - must not* delegate its power of raising a rate or borrowing money.
- Under all circumstances the council is responsible, whether for its own action or for that of the committee.

IV.—The Scheme of Establishment.

Necessary Provisions.

- (1) There must be a majority on the Committee of members of the Council ;
- (2) The Council must appoint :
 - (a) persons of experience in education.
 - (b) persons acquainted with the needs of the various kinds of schools within the area.
 These may be obtained :—
 - (a) By selection by the Council from among its own members, or, from outside, or ;
 - (b) By nomination or recommendation of other bodies where it appears desirable.
- (3) There must be at least one woman on the Committee.

Optional provisions.

- (a) Among the bodies who may be invited to nominate or recommend are included associations of voluntary schools (sec. 17 (3) (b)).
- (b) Among the persons whom it may be desirable to appoint as members of the first committee are the members of the School Boards existing at the time of the passing of the Act.
- (c) Separate education committees may be established to deal with special departments of work subject to the provisions of section 17 (6).
- (d) A joint committee may be formed for all or any purposes by a combination of counties, boroughs, or urban districts.

In the case of such a joint committee it is necessary that a majority of the members should be *appointed* by the councils of the counties, boroughs, or districts concerned ; it does not appear necessary that a majority should be *members* of those councils.

A borough or urban district may under section 20 (6) relinquish to the council of the county all or any of its powers and duties under Part II. or Part III. or both. Such relinquishment would be permanent in its effect. It would be possible for the council to

transfer back to the borough or urban district its powers of management in respect of any school or college within the area of the relinquishing council under section 20 (a). Memo-
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But the formation of a joint committee may be convenient in the case of boroughs or urban districts which may not desire to relinquish permanently their powers under the Act, but may, nevertheless, desire to work in close co-operation with the county in which they are situated. Arrangements for the formation of such a committee may be made for a limited period.

V.—Nomination or recommendation of other bodies.

It is probable that the representation of certain educational interests which the Council would desire to see represented on its committee may be effected most satisfactorily by the nomination of a member of the Committee by some society representative of the interest in question.

This course may save the Council some trouble in selection, and may also be most satisfactory to the society which is to be represented. In other cases it might be more convenient that a society should be invited to recommend a representative, or to recommend certain persons from among whom the Council might choose a representative.

In the case of nomination it must be assumed that the Council places itself in the hands of the body whom it invites to nominate.

In the case of recommendation, suggestions might be made on both sides with a view to the choice of some one acceptable to the Council and representative of the interest concerned.

In each case the appointment is made by the Council, but either method would assure that the person appointed was considered to be really representative by the interest concerned.

VI.—Duties of the Board of Education in Respect of Schemes.

- (1) To give publicity to the provisions of the proposed scheme. Section 17 (6).
- (2) To hold an inquiry if necessary. Section 23 (10).
- (3) To be satisfied that where the scheme provides for more than one Committee due regard is paid to the importance of co-ordinating all forms of education. (*See* Section 17 (6).)

It would not be desirable to perpetuate the severance of Elementary from Higher Education by the creation of separate Committees for each. But it may often be convenient to establish Sub-Committees, which might, under the supervision of the Education Committee, administer the various forms of education.

- (4) In the event of a scheme not having been made, or not having been approved within 12 months after the passing of the Act, to make a Provisional Order for the purpose of a scheme.

A ground on which the Board might be asked to withhold its approval of a scheme would be the non-representation or

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inadequate representation of some of the educational interests within the borough or urban district. An educational body or association might complain—

- (a) That the interests with which it was concerned were wholly unrepresented;
 - (b) That the person chosen to represent it was not really representative;
 - (c) That no security was afforded by the scheme for the continuance of its representation.
- (Points such as these should be carefully considered in framing a scheme.)

VII.—Disqualifications.

The circumstances which would disqualify a person for membership of the Council disqualify for membership of the Committee appointed by the Council, except that no person is disqualified by his holding office in a school or college aided, provided or maintained by the Council.

A person is disqualified for voting in the County Council on any question relating only to Part III. if he is elected for a division which consists wholly of a borough or urban district or of a part of such borough or district which is a local education authority for Part III. of the Act. (*See* Section 23 (3).)

VIII.—Draft Scheme.

Among the more important matters for which a draft scheme should provide are the following:—

1. The number of the proposed Committee.
 2. How many are required to be members of the Council.
 3. The educational interests which it is proposed should be represented.
 4. How it is proposed to secure their representation—by selection, recommendation or nomination.
 5. What security is provided for the permanence of such representation.
 6. What provision is made for the appointment of women.
 7. If more Committees than one—their proposed numbers, duties, and composition—the number, duties, and composition of sub-committees.
 8. The term of office of members of the Committee, and the arrangements for retirement and the filling of vacancies, occurring casually or at stated times.
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